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ABSTRACT

In many ways, 1976-1977 was a traditional year in labor relations in education. For the most part, traditional bargaining issues prevailed--wages and fringes, especially leave issues; tenure, seniority, and retirement; teacher workload and class assignments; union dues; and academic freedom and constitutional rights. The two major teacher unions--National Education Association (NEA) and American Federation of Teachers (AFT)--continued to battle for membership and prestige, although both suffered a drop in membership. While the 152 strikes in 1976-1977 were below the record high of 203 walkouts the year before, they were considerably above the number of strikes fifteen years ago and indicative of the recent militancy in teacher unions generally. But because of developments like declining enrollments and lack of taxpayer support, labor relations in 1976-77 were also unlike any in memory. For instance, AFT President Albert Shanker called for the suspension of collective bargaining of municipal employee agreements as long as New York's financial crisis persisted. This report focuses on teacher organizing activity, collective bargaining issues, contract settlements, strike activity, legal issues and developments affecting teachers, state board activity, and state legislature enactments. Examples of AFT and NEA organizing literature are included. (Author/JM)

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SPECIAL REPORT
TEACHERS AND LABOR RELATIONS, 1976-1977

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INTRODUCTION

There are almost three million professional people employed in public and private elementary and secondary schools. It is estimated that during the last academic year teacher unions had resources of $500 million available to them. Between the two major unions, almost 80 percent of the teachers in the country are organized. The total expenditures for elementary and secondary schools in the United States for the last school year is estimated at $131.1 billion.

But despite these huge sums, school systems in all parts of the country are facing pervasive and endemic fiscal problems. One large school district in Ohio, for instance, had expected to shut down completely from October until after the Christmas holidays because of marginal operating revenues.

As these facts indicate, the field of education is of vital interest to those concerned with current public sector labor relations developments. To this end, BNA compiled this Special Report to examine labor relations activity in our school systems during the past academic year—September 1976 to August 1977. The Report focuses on teacher organizing activity, collective bargaining issues, contract settlements, strike activity, legal issues and developments affecting teachers, state board activity and state legislature enactments.

HIGHLIGHTS AND SUMMARY

Here are highlights of developments reported in the Special Supplement:

► The two major teacher unions—the National Education Association (NEA) and the American Federation of Teachers (AFT) both lost members last year.

► The AFT voted to organize all school employees—not just those in the classroom.

► A vote at the NEA convention failed to allow paraprofessionals and teacher aides to become full NEA members.

► The AFT will enter into a "Southern Strategy" to attempt to break NEA's stranglehold on teacher union membership in the South.

► There was considerable dispute between AFT and NEA as to the extent of members in NEA's New York Educator's Association and how a recently passed agency shop law in New York State will affect the growth of that organization.

► NEA leads in the race to organize in California—a gold mine for new membership drives—after the passage of the Rodda Act, facilitating the organization of school employees.

► The NEA-AFT rivalry in Florida appears almost a dead heat.

► The key to AFT's success in elections appears to be the extent of AFT (versus association) membership in a unit.

► According to BNA's tabulation, there have been approximately 55 teacher strikes in 11 states so far this year.

► Courts reached different conclusions on the question of whether a school district can seek monetary damages for a teachers' strike.

► Several new approaches toward negotiating appeared on the collective bargaining scene in 1976-77, including "collective gaining," prenegotiation, and regional bargaining.

► Among major contract settlements, a 5 percent across-the-board pay raise for teachers, administrators and other credentialed employees plus expanded health and dental benefit were included in a one-year agreement between the Los Angeles Board of Education and the United Teachers of Los Angeles. In St. Louis, against the recommendation of their executive board, teachers accepted a new contract providing a $500 base salary and an average salary increase of $1,048.

Differing Opinions on Tenure

► In the most important legal development involving tenure policy, two state courts reached opposite conclusions on whether schools can relinquish their authority to make tenure determinations, despite an agreement to do so in a collective bargaining contract.

► While teachers gained significant First Amendment victories last year, they also suffered several setbacks, including a decision by the New York Court of Appeals that a school board has right to inspect teacher personnel files, even though it may have negotiated during its right to do so. In addition, the Supreme Court declined to review a Washington Supreme Court ruling that an admission of homosexuality connotes illegal as well as immoral acts justifying a discharge of a teacher by a school board.

► In the important area of dues checkoff, the Supreme Court ruled that a state cannot constitutionally compel public employees to contribute to union political activities that they oppose.

► The effects of the Supreme Court's 1976 *League of Cities* decision lingered well into the 1976-1977 academic year.

► The issue of residency requirements vaulted into the spotlight last year—as the result of a Supreme Court decision upholding the authority of cities to require public employees to live within city limits.

► The U.S. District Court for Eastern Michigan ruled that

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HEW has no authority to stop federal aid to schools that discriminate against teachers on the basis of sex.

► A new federal law requiring that handicapped children be "mainstreamed" into normal classrooms produced little impact in teacher negotiations in 1976-77—but its effect this year is uncertain.

► The NLRB assertion of jurisdiction over two parochial secondary schools violated the First Amendment principle of separation of church and state, an appeals court held.

► Several states statutes were amended to significantly modify procedures for impasse resolution and fact-finding hearings.

The Usual and the Unusual

In many ways, 1976-1977 was a very traditional year in labor relations in education. For the most part, traditional bargaining issues prevailed—wages and fringes, especially leave issues; tenure, seniority, and retirement; teacher workload and class assignments; union dues; and academic freedom and constitutional rights.

The two major teacher unions—NEA and AFT—continued to battle for membership and prestige, although both suffered a drop in membership last year.

While the 152 strikes in 1976-1977 was below the record high of 203 walk-outs in the year before, it was considerably above the number of strikes ten or fifteen years ago and indicative of the recent militancy in teacher unions generally.

However, Robert Helsby, chairman of the New York Public Employment Relations Board, has observed that "education is a declining industry," increasingly subject to layoffs and examination of its traditions of tenure, seniority, and fair dismissal. As a result, unions and schools alike are seeking a more structured system to absorb those changes. Management is "lowering the level" of services in education, affecting, among other things, class size. And taxpayers are pressuring schools to save money and are questioning the relationship between the quality of services in education to their tax dollars, according to Helsby *(GERR 692:11)*.

In fact, taxpayer defeats of local school levy elections forced the closing of several school districts in Ohio, Oregon, and Connecticut. Six Ohio districts, including the 56,000-pupil Toledo system, were closed *(GERR 688:B-17)*.

As a result of these and other developments, labor relations during this last academic year was, in other respects, unlike any previous one in memory. Here are some examples that suggest that conclusion:

► The AFT announced that in 1977-1978 it would try to organize all school employees not just those in the classroom. Targets of this organizing drive will include librarians, maintenance workers, and health workers.

An amendment to the union constitution permitting organizing of "other workers" by outside schools and educational institutions was approved by delegates to the Federation's sixty-first annual convention, held August 15-19 in Boston. AFT's tapping the field of unorganized nonschool personnel will pit the 441,000 member AFL-CIO union against other AFL affiliates with more occupationally diverse memberships, such as the American Federation of State, County, and Municipal Employees.

AFT President Albert Shanker and top union organizers will focus increasing attention toward organizing in the South. There, AFT will face NEA, the traditional skepticism of the trade union movement, and a virtual absence of bargaining law *(GERR 723:17)*.

The stand by the AFT was in marked contrast to that taken by the NEA at its annual convention in Minneapolis. NEA delegates rejected a resolution to admit paraprofessionals to their organization and never even dealt with the question of noneducational workers.

However, NEA does have "arrangements" with AFSCME in Ohio, Colorado, and New Mexico where NEA will organize only certificated school employees and AFSCME will organize only nonteaching employees *(GERR 686, B-12)*, with further cooperative arrangements forecast for additional states.

► NEA reported that although at the beginning of the 1977 academic year, the number of strikes was below that of 1976, over 2,000 local affiliates were working without new contracts.

► Despite their sometimes acrimonious battles, Shanker scorned the continued rivalry between the NEA and AFT, declaring it the "height of insanity" not to be negotiating a merger. The AFT is still eager to sit down and start talking, he said *(GERR 723:18)*.

► Following a controversial ruling voiding a New York law designed to make New York City increase its educational spending by as much as $150 million, the New York City Board of Education had to lay off some 3,700 teachers and 300 supervisors when school began last year *(GERR 679:B-1)*.

► Shanker called for the suspension of collective bargaining of municipal employee agreements as long as the city's financial crisis persisted *(GERR 684:B-1)*.

► Schools ought to be closed when the money to run a full academic program runs out rather than cutting corners in educational programs, said president John Ryor of the National Education Association in a speech to educators in Burlington, Vermont in June *(GERR 711:17)*.

► In Ohio, where public schools were closed down for several weeks because of the energy crisis, the 45,000-member Ohio Association of Public School Employees issued a statewide energy policy to the effect that all school employees should be paid full wages and fringes during any emergency shutdown *(GERR 696:22)*.

► Principals attending a "strike seminar" conducted by officials of the School Administrators Association of New York State were told to:

—Set up temporary telephone units (to prevent jamming by teachers).

—Consider hiring private security and *not* to:

—threaten teachers with laws prohibiting strikes.

—"dream, think, or even entertain thoughts of retaliation" *(GERR 712:19)*.

► Parents and homeowners in Pennsylvania threatened a revolt if the state law allowing public school teachers to strike wasn't changed *(GERR 703:15)*.

► In Wisconsin, where public employees are not permitted to strike, they are entitled to unemployment compensation when the employer locks them out, a Wisconsin court ruled *(GERR 719:15)*.

► Also in Wisconsin, a member of the Board of Regents told the Wisconsin Newspaper Association that if Johnny can't read or write, school officials should hold teachers accountable during contract negotiations *(GERR 693:23)*.

► Three hundred students at Mt. Carmel High School in the San Diego area stopped classes to support higher pay for teachers. Student representatives said they just wanted to help their teachers get higher salaries *(GERR 683:19)*.

► NEA endorsed a political candidate—President Carter—for the first time in its history *(GERR 675:B 15)*.

► Teachers in Hopkinton, R.I. struck in fall 1976—demanding not greater wages or fringes—but rather smaller classrooms to prepare them to more effectively teach handicapped children as required by a new federal law.

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► The Teachers Association of Baltimore County's recently opened a high-rise apartment building in Towson, Maryland—envisioned as a retirement haven for teachers—but not one of the 3,000 teachers or former teachers who applied for an apartment had an income below the ceiling set by the federal agency—the Department of Housing and Urban Development—that provides rent subsidies for the building *(GERR 676:B-21)*.

TEACHER ORGANIZING—NEA

By far the two largest, most visible teacher organizations that are active in public school classified employee labor relations, are the National Education Association (NEA) and the American Federation of Teachers (AFT). NEA was founded in 1857 as the National Teacher Association, incorporated in 1886 in the District of Columbia as NEA, and chartered by an act of Congress in 1906. NEA is an independent organization, and its membership was nearly 1.9 million in 1976 but dropped to about 1.7 million in 1977 for a loss of about 200,000 members and a loss of revenue of about six million dollars.

By contrast, AFT belongs to the AFL-CIO, and while it was founded April 15, 1916 in Chicago, it remained relatively obscure until the early 1960's when its more militant leaders began serious drives to organize teachers and win bargaining rights for them in New York City and other major metropolitan areas. Since then AFT has grown nine-fold from 50,000 to about 441,000 members in 1976, although it, too, experienced a loss of about 30,000 members over the previous year's membership of 471,000. In 1976 AFT had an annual deficit of about half a million dollars and in 1977 its deficit was one million.

Because the two organizations emerged from quite different historical frames of reference into the present public employment labor relations framework—which differs from state to state but generally permits public employees to organize and bargain or consult with their employers—a classic dichotomy exists between the two organizations which even their leaders acknowledge *(GERR 727:18)*.

According to NEA executive director Herndon, the two organizations "are made up of people who have different preferences on some basic, structural, ideological issues and relationship questions." Thus the two organizations fight "because they are competing for the loyalty of the same group of people—America's teachers."

While AFT represents half a million teachers in New York City alone, AFT president Shanker points out that AFT is well qualified to be a national leader in education because it also represents teachers in most major cities, including Boston, Providence, Springfield, Philadelphia, Pittsburgh, Cleveland, Toledo, Cincinnati, Chicago, Detroit, St. Louis, Kansas City, San Francisco, and Washington, D.C.

AFT also represents more teachers in higher education than NEA or the American Association of University Professors, Shanker observes, and the fact that AFT has a large number of members in one place and growing numbers in others "doesn't make us any less of a national organization." However, NEA is four times larger and has its own legitimate existence, Herndon asserts. It is an "important and powerful organization of 1.7 million educators "which is the majority of teachers in every state except two, and he says NEA has a "clear mandate to speak on behalf of American educators."

The Merger Issue

The issue of possible merger of the two organizations on both the national and state and local levels has been broached before, and at one point several years ago amid a flurry of publicity, spokesmen for the two organizations did hold a series of meetings. Although reports differ as to what occurred, everyone agrees the talks broke off without discernible progress.

According to Shanker, "we had meetings on the shape of the table and who should come to the next meeting, and where it should be. But at the very first meeting where we were supposed to talk about issues, it all broke up, we were called by the press, and the NEA had already written their break-off statement. And maybe if things are done publicly, that's the way it has to be done."

Herndon, however, looking back to what happened during the last round of merger talks, declares: "AFT had a different chairman every time we met. We were not really sure who we were dealing with. I think it's sufficient to say they were not productive conversations. Are we willing to discuss the matter? Yes. Is there anything to come from it? My guess is, probably no, unless there's been some moderation of views on the critical issues."

The major differences between NEA and AFT are membership in the AFL-CIO, which NEA opposes, and quotas. NEA's constitution calls for affiliates' elective and appointive bodies to have ethnic-minority representation at least proportionate to that of their membership. Even the two experiments of merging state affiliates of NEA and AFT in New York and Florida fell apart shortly, with AFT "acquiring" the merged organization and NEA setting up a new state affiliate for dissident teachers, although there are two locals which have remained successfully merged: Los Angeles and New Orleans.

Given the present standoff, and the fact that both NEA and AFT allocate 10 percent of their budgets for organizing and jurisdictional campaigns for members, organizing rivalry between the two organizations is more likely to further intensify than disappear in coming years. Herewith follow analyses of NEA's and AFT's organizing methods, past efforts, and future goals.

Past Efforts and Prospects

According to NEA organizing program coordinator Raymond Edwards, most of NEA's organizing gains last year came through acquiring exclusive locals in California under the state's new bargaining law for public school employees. "We picked up over 700 locals there, and other organizing has been in the 'southern belt' beginning in Virginia and moving down and west through the Carolinas, Georgia, Alabama, and Mississippi to Louisiana," he explained.

Over one-third of AFT's members are in 11 very large locals, and while NEA's four-times-larger membership tradi-

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tionally is spread out in smaller city, county, and rural school districts, it does have a number of large affiliates. These include Fairfax County, Va., with 6,750 NEA members, Baltimore County, Md., with 6,156, Houston, Tex., with 5,278, Montgomery County, Md., with 4,818, Jefferson County, Ky., with 4,689, Broward County, Fla., with 4,467, Nashville, Tenn., with 4,304, Buffalo, N.Y., with 3,458, and Denver, Colo., with 3,448.

Edwards noted, however, that Hawaii's school system—which differs from other states, in that it does not have district or county units but is a statewide system—employs approximately 8,600 teachers of which 6-7,000 belong to NEA, and NEA has 10,972 members in the "merged" Los Angeles local. Edwards foresees a "hugh effort in Puerto Rico that could liven things up. There are 19,000-plus teachers there, and we have a commonwealthwide organization just on the verge of opening up," he said.

"The next few years will be getting our organizational head around to that sun belt. That's where most of the remaining unorganized teachers are, so that's where the work is," Edwards said. Related organizing efforts also will take place in a contiguous mid-northern belt from West Virginia, through Kentucky to Missouri, he added.

"Florida, of course, has a collective bargaining law," he observed, but the other southern states have no legal framework for teacher bargaining, so NEA organizers usually work first to force a school board to recognize a local association as the teachers' spokesman and then to force it to recognize it as teachers' exclusive representative.

Referring to NEA's team of 28 special field organizers as "the harassers of the world," Edwards said that while some subscribe to the theory that first a legislature enacts a bargaining law and then teachers start to organize, he maintained that it is this process of forcing recognition and then exclusivity that leads legislators to want to give employment relations procedures some order by way of formal legislation.

Organizing in New York State and NEA's ongoing confrontation with AFT there will continue, according to Edwards, and organizing activity also will keep going on in California because of second rounds of elections coming up as contracts expire and as exclusively-represented units can be challenged.

With regard to running a particular, local organizing drive or preparing for a representation election, NEA communications specialist Barry Abel said that while locals can and do ask for and receive assistance from NEA and state affiliate services, they tend to shape their own campaigns. Therefore, they differ greatly and range from "slick" publications and promotional material to using ditto machine flyers, using surveys, proceeding on a teacher-by-teacher basis, or simply relying on the resources and contacts of the building representatives in certain school district.

"NEA generally is the incumbent in most representation elections, so we run on our already well-established record," he said, and "anything NEA has gained elsewhere in the country in terms of bargaining provisions and rights are stressed in other campaigns."

NYEA "Momentum"

The New York Educator's Association is the state affiliate NEA established in New York following the vote of the merged NEA-AFT New York State United Teachers to disaffiliate from NEA and remain in AFT in early 1976 *(GERR 642, B-21)*. NEA and AFT membership figures in the state are a matter of considerable disagreement, with NEA executive director Herndon asserting that NYEA "presently has over 25,000 members in New York."

AFT president Shanker, however, claims that NYEA has "a little over 15,000 members," and if NYEA exclusive representatives negotiate agency shop under a recently passed law *(GERR 724:11)* its membership will go up "to about 21,000 or so." He further notes that in a state with almost 200,000 teachers, when NEA has 10 percent and AFT has 80 percent "there's no question as to where the power in the state is."

Shanker points out that how many locals NEA has in New York is a matter of record, and there is no dispute about "which locals went where," but Herndon takes issue with the 15,000 figure, noting that it was issued last November and not for the membership year most recently completed.

According to Barry Abel, NEA communications specialist, NYSUT's claim of nearly 220,000 teachers *before* the disaffiliation is inaccurate and AFT was counting members even though they did not belong to the AFT-CIO. Dividing a proposed NYSUT dues increase into its proposed budget, shows that NYSUT has about 150,000 members, he said. NEA has another 25,000 and the remaining 25,000 "either were riffed [reduction in force] or are not joining either organization," he added.

John Dornan, director of NYEA communications, asserts that "NYEA has over 23,400 hard members." He notes that it has already won its first bargaining unit election this fall in Whitesboro and expects to participate in a dozen more elections in the next month. Half of these are what he calls "straight Public Employment Relations Board elections," where a petitioner must show 30 percent support and the winner gains exclusive bargaining rights, and half are internal membership votes where local leaders have indicated a desire to switch representation.

NYEA also is targeting "priority" locals where authorization card drives are starting, and "we're optimistic about keeping the momentum going," he said. Dornan explained that there are 750 school districts in New York, and NYEA has 203 locals—154 of which are exclusive representatives and the rest are "minority or secondary" locals. "Where it's a straight PERB election we usually form a minority local but where it's internal we don't," he said.

NYEA's five largest locals are Buffalo, representing 3,500 teachers, East Ramapo for 1,000, Sewanhaka for 800, Greece for 600, and Binghamton for about 500. After the top 20, most locals are "probably under 100," he said, and NYEA also has about 20 locals with 50 or fewer teachers. Also, NYEA represents some teachers in Board of Cooperative Educational Services (BOCES) schools which are formed on a county basis with participants paying a per pupil rate for special educational, vocational, and job-oriented programs, Dornan explained, and BOCES schools are "layered on" to the regular school district system.

Dornan said a few of NYEA's locals on Long Island are "lighthouse locals" that were chartered by AFT when it first began organizing teachers in New York City and environs in the early 1960's. For example, he said, the teachers union in Plainview-Old Bethpage "was the first AFT local on the Island, the first to strike, and the first to sign a contract."

But the head of that union "became disenchanted with Shanker's move to the right and the lack of democracy within AFT, and he and several others came over to NYEA last year and were instrumental in setting up this Long Island council. We're very encouraged," Dornan said. About eight to 12 AFT affiliates on Long Island are "possible" to switch over to NYEA this year, he predicted. There are about 80 districts on the Island, and some are very small, he added.

Comparing NYEA's organizing efforts last year with its organizing goals this year, Dornan said: "Last year we were looking at 700 districts spread across the state, but this year we have developed priorities, have established legislative and

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other committees, and expect a great deal of activity in the K-12 [kindergarten through 12th grade] area."

As opposed to last year when the organization was "spread thin," NYEA's present organizing situation is "a luxury this year because everything is more systematized, and we have a good handle now on all the districts," he said.

With regard to the passage of the agency shop bill for public employees, Dornan explained that it will impact very little on teachers and NYEA membership this year because the law does not mandate agency shop but rather makes it a negotiable subject of bargaining. He said only a half dozen teacher contracts exist in the state which contain agency shop provisions contingent on enactment of enabling legislation, and only one of those, Buffalo, is an NYEA affiliate.

Shanker, however, has maintained that few New York teachers will stay with NEA much longer and not many NEA members across the country "are going to keep pouring millions of dollars in to provide excellent services in New York State which they don't provide for the dues payers in Mississippi, Alabama, Texas, or California, or anywhere else." Herndon, however, asserted that NEA has 100 years of history in New York state and "a lot of teachers and a lot of local affiliates that want to remain part of NEA.

Herndon said NEA made a commitment to putting a state organization in place with the ability to service New York members and locals. He termed the effort "going very well," and predicted NEA will continue to grow in New York."

NEA Leads California

While clearly the underdog in New York, NEA's California affiliate, the California Teachers Association, presently represents more teachers than the rival California Federation of Teachers. Formerly, teachers in the state were allowed to meet and confer through representative committees of their organizations, but with the passage of the Rodda Act which took effect last year *(RF51:1414)*, an organization voluntarily recognized or receiving a majority of ballots cast in a representation election becomes the exclusive bargaining agent for units of school employees. And the race to organize California teachers was on.

Herndon's assessment of that race is that NEA did "exceptionally well in California last year," and he noted that CTA now represents "more people than we have members, and we look for growth there." However, like organizing rivalries elsewhere, figures can be bent and it should be noted that California's largest school district—Los Angeles with 31,517 teachers—is represented by the United Teachers of Los Angeles which is a locally merged organization of NEA and AFT. CTA does not include this figure in the following breakdown of numbers of CTA or CFT units secured and teachers represented as of September 22, 1977:

► In K-12 units, CTA has been recognized exclusive agent in 660 school districts representing 110,933 employees and has won elections in 107 districts with 54,167 employees for a total of 767 districts and 165,100 employees; CFT has been recognized in five with 627 employees and won elections in 16 with 10,257 for a total of 21 districts and 10,884 employees.

► In community colleges, which also are covered by the Rodda Act, CTA has been recognized in 17 units with 6,250 employees and won elections in five units with 2,090 for a total of 22 community college districts with 8,340 employees; CFT has been recognized in one with 17 employees and won four elections with 7,033 employees for a total of five districts and 7,050 employees.

So according to CTA calculations, it represents 173,440 teachers in 789 districts, while CFT represents 17,934 teachers in 26 districts. Over a quarter of CFT's members are in one unit where CFT won an election last year to represent San Francisco's 4,700 teachers. CTA, nevertheless, is proud of its campaign and subsequent representation victory in San Diego—the state's second largest school district with 5,736 teachers. Other large units of teachers CTA represents include:

► Freemont unified 1,350, Anaheim union high school district 1,500, Fresno 2,400, Garden Grove unified 1,850, Glendale unified 1,033, Grossmont union high school 1,054, Hacienda La Puente 1,389, Hayward unified 1,158, Modesto elementary and high school 1,032, Montebello unified 1,000, Mt. Diablo 2,100, and Newport-Mesa unified 1,200.

► Also, Norwalk La Miranda 1,227, Oakland unified 3,054, Orange unified 1,323, Riverside unified 1,075, Sacramento unified 2,286, San Bernadino 1,285, San Jose unified 1,800, San Juan 2,350, Santa Anna unified 1,100, Santa Barbara 1,044, Stockton city unified 1,508, and Torrence unified 1,31[illegible].

According to CTA staffer Elmer Wells, there are close to 1,100 teacher bargaining units in California but two-thirds of the student enrollment are in about 250 large unified school districts, a few of which like Long Beach with 2,215 teachers and Pasadena with 1,000 have not participated in representation elections yet because the California Educational Employment Relations Board still is determining appropriate units.

But he said an election in Pasadena will be scheduled soon. Last year before school was out in June, CTA participated in 25 elections, and when school resumed it took part in 117 more for a total of 142 by last June 6. "We expect about 35 to 40 elections this year," he said. CTA won its first election of this school year September 21 at Sweetwater Community College District (Southwestern College) by beating CFT 183 to 154 to represent a unit of 475 teachers.

Also coming up, Wells said, is a decertification election in the 385-teacher Campbell school district in which both CFT and the Teamsters are participating, although "we expect to win." CFT also is trying to decertify CTA in Old Adobe, but the first voluntary recognition CFT obtained was in Elsinor unified high school district where CTA plans a challenge.

"Election activity in the community colleges also will pick up this year," Wells predicted, noting that CTA has petitioned at five and may petition for more, while CFT is the majority petitioner at another five community colleges. All together there are 22 community colleges waiting for either voluntary recognitions or representation elections, with a total potential of 15,432 members in those bargaining units. Seven election dates are set, he said, but there are 20 community college districts representing 1,323 employees which have neither granted nor applied for voluntary recognition.

"We feel we've lost all the units we're going to lose in community college districts," Wells declared, noting CTA organizing campaigns tend to be limited to places where representation elections are coming up or are on the horizon. But he added that many small school districts in the state have a *de facto* "no recognition" policy and will never do anything under the collective bargaining law." But these few hundred districts tend to be very small, and many do not have more than a "handful" of teachers, he added.

Florida Evenly Split

NEA-AFT rivalry in Florida is long-standing. Before the state's comprehensive bargaining law was passed in 1974 *(RF51:1811)* NEA's affiliate in the state was the Florida Education Association, but at about the same time merger came about between NEA and AFT affiliates in New York, FEA voted to merge with AFT's Florida locals thus becoming FEA/United *(GERR 585, B-16)*. When this intention was

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announced, NEA disaffiliated FEA September 4, 1974 for violating its policy of no affiliation with the AFL-CIO *(GERR 571, B-16)*, even though part of the merger agreement was that any FEA/United member did not have to pay per capita dues to the national AFT.

At its first statewide convention the following April in Tampa, Shanker presented it a charter recognizing FEA/United as Florida's official AFT affiliate, and the convention elected as its president former 1965-66 NEA president Richard Batchelder, and Sam Rodales of Hillsborough and Pat Tornillo, head of the 12,000-member United Teachers of Dade County, first and second vice president, respectively.

Meanwhile, as in New York, NEA established a new state organization, then called Florida United Service Association and now known as the Florida Teaching Profession. As the new bargaining law went into effect, organizing intensified. After a year and a half of organizing and participating in representation elections, teachers in all of Florida's 67 counties except one are represented by an exclusive bargaining agent affiliated either with FTP or FEA/United.

Summing up the outcome, FTP communications specialist Toni Matherne declared: "Florida has always been a highly organized state with regard to teachers, and what's happened is that we [NEA and AFT] have pretty well split the state down the middle." She said FTP represents a total potential of 41,586 teachers in 33 counties, and FEA/United represents a total potential of 40,586 in 33 counties.

According to Matherne, FTP has 13 locals with the potential number of teacher members over 1,000, including the following, with number of actual FTP members in parentheses: Broward County (Ft. Lauderdale) with 7,150 teachers (4,000 FTP members), Pinellas (Clearwater-St. Petersburg) with 5,030 (3,000), Orange (Orlando) with 4,435 (2,610), Palm Beach with 3,750 (2,576), Leon (Tallahassee) with 1,300 (750), Polk (Winter Haven) with 4,000, and Pensacola with 2,500.

She also said FTP has minority affiliates in counties represented by FEA/United and FEA/United has minority affiliates in FTP-represented counties. Because FEA/United represents the Dade County-Miami area, she said that in considering AFT's representation figures, "you have to take 12,000 teachers off the top." AFT also represents Pasco County's 1,000 teachers, Duval County's (Jacksonville) 5,875, Hillsborough County's (Tampa) 6,000, and Sarasota's 1,000, she said, although the latter two, together with about a dozen other FEA/United counties are referred to as "no nationals" because they do not pay national per capita dues to AFT.

While Matherne termed this type of local option granted in the merger agreement a sham, she said AFT used it to recruit in rural Florida counties where unionism is an anathema. It is "a complete eye wash" to pacify those teachers, she said. AFT had set a fall 1976 deadline for the no national locals to come into compliance and either pay the per capita dues or pay the equivalent in penalties, she explained.

As these internal AFT local votes were taking place, Matherne said the leaders of these locals usually did not let the membership vote, but agreed to compliance in executive session. However, when the 1,200 teachers of Alachua County in the Gainsville area were voting on AFT and thus AFL-CIO affiliation, she said FTP "launched a negative campaign vote to say 'no' to AFL-CIO affiliation and we won in the spring of 1976, although the executive board later voted compliance anyway, so of course it passed."

Matherne said she "does not understand why these AFT teachers don't catch on to this procedure. FEA/United has to pass on the per caps or penalties to AFT, but where the money comes from we just don't know, except FEA/United gets large loans from AFT and the AFL-CIO." She said Hillsborough, for example, does not even pay dues to FEA/United, but FEA's organizing projects are funded by the national AFT and the AFL-CIO.

Fall FTP Organizing

Noting that FTP is "right in the middle of our fall membership drive," Matherne added that "we have a constant organizing battle here in Florida. The legislature has been very stingy, contracts cannot legally be more than three years long, but they tend to be just one- or two-year contracts in case the legislature comes up with some money."

For the last two years "collective bargaining elections were in constant progress, but there are virtually none on the horizon now, since spring is the "window period" of 30 to 90 days when a minority organization can petition for a representation election after the exclusive agent's contract expires, Matherne declared.

She pointed out that FTP also has local affiliates in Florida community colleges where FTP is the exclusive representative and bargaining is in progress. She further observed that in a few counties FTP also represents noninstructional units, such as paraprofessionals, bus drivers, and cafeteria workers. There is a potential for three school units in each county, she noted, and while FTP did not actively seek to organize these noninstructionals, the Florida Public Employees Relations Commission generally has determined these large units to be appropriate.

Comparing FTP's organizing efforts in the past with its organizing goals for the future, Matherne had these comments: "For the last two years, we had eight full-time organizers in various FEA counties with the goal of creating minority locals and forcing representation elections. Now these people service majority locals because we realize we have just as much chance to get new members in our own majority locals. But we are targeting some key AFT counties to challenge their representation as opposed to tackling the whole state. We don't anticipate any collective bargaining elections until next spring but either side could force one or two."

The Solid South

Out of 39,000 teachers in the state, the **Alabama Education Association** this school year expects at least 35,000 will be AEA members, but since it is an election year in the state and AEA has developed a good legislative program, its membership may go even higher than 93 percent to 36- or 37,000 members, reported NEA organization specialist for communications, Libby Johnson. AEA also expects to solicit members from among support personnel and at least double those present 4,000 members to 8- to 10,000. Johnson noted that "this is a big new area for AEA, since organizing school support employees in the south is not that common."

"While there is no *per se* collective bargaining in Alabama [most southern states have no statutory provisions granting teachers the right to organize and bargain] local associations are active in presenting proposals to school boards and completing personnel policies as the nearest equivalent possible to signing a contract, she said. This approach is being taken by AEA locals in Gadsden, Mobile, Jefferson County, Birmingham, Walker County, and Chambers County.

The **Georgia Association** of Educators had 36,000 members last year, and reportedly lost some 8,000 teachers to the conservative, independent National Association of Professional Educators as principals and school administrators belonging to NAPE urged teachers to switch. While GAE has no firm figures because "an organizing drive is in progress," Johnson reported that GAE is 10,000 members ahead of this same time last year. Only five locals increased their memberships last year, she said, while 60 already have raised their membership this year.

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Conceding that NAPE has been actively recruiting members in Georgia and several other southern states, Johnson said it is no threat in Alabama where AEA has such a high percentage of the state's teachers. In Georgia, she noted, NAPE and the AFT which has announced a southern organizing drive have created "a radical standoff where NAPE accudes AFT of being too radical and AFT accuses NAPE of being too conservative."

In Georgia as well, she said there is much local activity in working with school boards on such issues as payroll deduction of association dues and personnel policies. These active locals are in Gwinnett County, Mitchell County, Forsyth County, Muscogee County, Chatham County (Savannah), and Atlanta. "Atlanta will be moving now into collective bargaining, they have established a bargaining committee," she said. Of Atlanta's 4,200 teachers, 1,800 are GAE members, although there is no exclusive recognition policy, and "the board can talk to anyone it likes." Johnson said that AFT records show payment of per capita dues for 300 AFT members in Atlanta, and the size of its Georgia delegation to the AFT convention was on that basis.

The **Kentucky Education Association** last year had 27,000 members out of a potential 35,000 in the state and expect a "healthy increase of 1,500 to 2,000 new members this year," she continued. KEA local affiliates currently are bargaining formal agreements in Jefferson County, Kenton County, Paducah, McCracken County, Marshall County, Trigg County, and Taylor County, she continued, and a bargaining contract in Fayette County is presently in the process of being ratified.

Fifteen other KEA affiliates have "procedural agreements" where they have "gone to the board and worked out procedures for the association to present proposals, although no legal, binding contract is signed," she explained, and 17 other locals presently are seeking this kind of recognition.

The **Arkansas Education Association** last year had 17,000 out of a potential 23,000 members, and AEA "expects some gains or at least to hold their own, although NAPE is a big problem," Johnson said. Arkansas does have collective bargaining for teachers in Pulaski County and Little Rock both of which have "very strong locals," she reported. Thirty locals have "meet and confer" or procedural methods for dealing with their school boards, and Johnson noted that AEA has planned five training sessions for its members in other counties to prepare them to approach their boards and establish similar personnel procedures.

The **North Carolina** Association of Educators last year had 49,500 members out of a potential of 56,000, and NCEA "expects that the possibility of an increase this year looks good." Johnson said "there is no formal collective bargaining anywhere in the state but locals are active in Wake County, Greensboro, Ashboro, and Winston-Salem. She noted a number of situations in the state where "principals are getting organized and starting to pull out of NCEA to join other independent organizations of principals and school administrators."

The **South Carolina** Education Association last year had 22,000 members out of a potential 31,000 and reportedly lost members, but SCEA had "significant activity of locals in Berkeley County, Greenville County, Charleston County, Calhoun County, Summerville, and Richland County (Columbia), with representation efforts concentrated on payroll deduction, personal leave and sick leave policies, and teacher centers," she reported.

The **Mississippi Association** of Educators had 13,600 members last year out of a potential 23,000 and "expects increases from all over the state, although it cannot gage any particular pattern of urban or rural growth" in MAE membership, she said. Finally, the **Tennessee Education Association** last year reported 43,500 members, and collective bargaining contracts were signed in Memphis, Nashville, Unicoi County, and Cheatham County. In Johnson's view, NEA membership in the south is "stable and increasing. As the locals begin to learn to be more outspoken and stand up for teachers' rights," they will easily attract more members. She said "the initial falloff [of NEA membership in the south] has occurred, and they [organizers] are getting the locals back into the fold."

NEA communications specialist Barry Abel insisted NEA does not have an official "southern strategy." Rather, "organizational efforts are no different from what we've been doing all along." He termed AFT's renewed efforts to recruit members in the south "a negative campaign," and attributed NEA's membership drop last year in Georgia and South Carolina to "paranoia in the south about collective bargaining."

Abel noted that southern chambers of commerce, are trying to attract northern business and industry with anti-labor positions, so "they are blasting NEA which they didn't used to do." Also, while both NEA and AFT in the south try to organize principals into organizations separate from teachers, in the rural south principals and teachers always have been "close." Principals with allegiance to NAPE have convinced some teachers to be "drawn over" to NAPE as the "professional" organization to join, arguing that NEA is "too militant," he said.

Abel declared: "Therefore, NEA should not stop or change what we have been doing but simply explain it better because prejudices against labor and organizing are more ingrained in the south than elsewhere. Our affiliates in the south are just doing what they've always done, only now it is a much more coordinated effort. NEA already is organized in the south. Teacher organization in the south has always been very high. It's NAPE and AFT that don't have anything there now and have to 'form' things. There's basically no change in our southern strategy."

Following is a representative sampling of NEA organizing literature.

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There's only

ONE

ISSUE

in the bargaining election campaign

"SFCTA has the strength behind it to enable our SFCTA bargaining team to get the job done. And that's the bottom line because nothing anybody says is worth a thing if they can't make it happen. SFCTA can. Please think about it, and join us in voting for SFCTA (CTA-NEA) as our collective bargaining representative.

—SFCTA Bargaining Team Members

SFCTA (CTA-NEA):
Concerned enough to find out what we want with the strength and support to get it done.

SFCTA DELIVERS
VOTE X SFCTA

The real issue in the bargaining election campaign is:

Which organization has the *concern* to find out what San Francisco teachers want and need, and the *size, experience* and *support* to bargain and enforce a contract that gets it for us.

***Only* SFCTA (CTA-NEA) has the ability to do that.**

That's the reason our colleagues throughout the state — north and south; urban, suburban and rural — are voting for CTA-NEA representation by a margin of 130,000 to 3000.*

Our Input

SFCTA is combining the Association's vast experience in bargaining with an extensive personal interview program designed to give all City teachers direct, in-depth input into the formulation of our SFCTA specific contract proposals. These will be taken to the bargaining table by the SFCTA bargaining team with full assistance and support from the CTA/NEA research, budget and finance, and collective bargaining experts.

By contrast, the AFT (AFL-CIO) has simply re-printed a year old AFT booklet on bargaining goals (called "program for progress"), simply changing the cover by adding "'77" just below the existing "'76."

That document was **not** developed by San Francisco teachers or **even for** San Francisco teachers. It has been manufactured for use in AFT representation election campaign efforts throughout the country.

More than a year ago, with a different cover and a slightly revised page one text (for printing above or below the photograph of the appropriate local AFT president) essentially the same booklet was used in elections throughout the South, especially in campaigns in Florida in 1975. Florida teachers rejected this attempt to substitute "canned" material for **real** localized bargaining research.

Some of the items mentioned don't even apply to our City — for example. AFT didn't even bother to exclude extraneous items that do not apply to our specific bargaining unit (in our City, for instance, paraprofessionals and substitutes are excluded from the bargaining unit).

SFCTA will go to the bargaining table with a proposal designed by San Francisco teachers, the teachers who will live under the contract that will be negotiated. That's how SFCTA builds on the Association's state and national experience (nearly 5000 national contracts bargained by NEA compared with 300 by AFT, and NEA represents teachers in 36 of the nation's 50 largest cities). By contrast, AFT has proven unable to put together the effort necessary to find out from us — local teachers — what **we** really want and to build a package to meet **our** needs.

Ability
to Get the Job Done

SFCTA's bargaining team will keep every San Francisco teacher involved in the negotiations. Just as important, only SFCTA has the backing to accomplish the job of bargaining and enforcing our contract. **Proof:** CTA has **already** bargained more than 50 contracts in California with grievance procedures terminating in binding arbitration of grievances. AFT has not bargained a single California contract with binding arbitration of grievances. (Binding arbitration of grievances is the contractual guarantee that contract provisions can be enforced.)

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Only SFCTA (CTA-NEA) has the support it takes to bargain and enforce the contract San Francisco teachers need.

San Francisco teachers must demand two things from our collective bargaining representative. *San Francisco teachers must decide what we want in our contract, and the organization has to have the support we need to deliver what we want.*

Only SFCTA (CTA-NEA) gives us all that:

- Only SFCTA surveyed all teachers in depth to determine the package
- Only SFCTA has experts in bargaining already here to prepare the negotiations
- Only SFCTA has the legal and bargaining experts to help with the actual bargaining
- Only SFCTA has the total support we have a right to demand of our representatives

Join us; vote for the organization that can deliver what we need the way we need it. Vote for SFCTA (CTA-NEA) on February 8.

SFCTA DELIVERS
VOTE X SFCTA

San Francisco Classroom Teachers Association • SFCTA (CTA-NEA)

Look at the facts:

	NEA SFCTA's national level	AFT AFL-CIO	Conclusions
Membership	1,800,000	420,000	NEA is more than four times as big
Annual Budget	$68,696,100	$10,236,000	NEA has nearly five times as much working for teachers
Professional Staff	288 (plus 1145 UniServ)	52	NEA has 27.5 times the professional staff serving teachers
Money Spent Protecting Teachers Legally This School Year	$ 4,285,526	$ 210,330	NEA spends more than 20 times as much protecting teachers
Money Devoted to Teacher Rights and Welfare (including organizing and serving affiliates)	$31,681,055	$ 4,810,914	NEA has more than 6.5 times as much to work for teacher welfare
Affiliates	12,336	1910	NEA has 6.4 times as many affiliates
Labor Dues	0	$ 1,045,864	The AFT, AFL-CIO spends more than 10% of its entire budget on its labor affiliations dues

NEA represents teachers in 36 of the nation's 50 largest cities (that's 72% compared with 20% for AFT, AFL-CIO).

CTA-NEA has already bargained 50 contracts in California with binding arbitration of grievances. AFT has none.

CTA-NEA affiliates have been chosen in nearly every school district in California under the new state bargaining law (630 15, 128 589 to 3603 & 12).

NEA has bargained more than 30 percent of the teacher contracts in America.

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SDTA/CTA/NEA

SAN DIEGO TEACHERS ASSOCIATION

SDTA BARGAINING COMMITTEE

Counter-clockwise from the front:

GENE PLATTEN, Patrick Henry Senior, Ethnic Staff Balance (Assignment & Transfer)
CHUCK MOSBURG, Marcy Elementary, Elementary Counseling
HUGH BOYLE, SDTA President, Bargaining Team
EVELYN McKINNEY, Montgomery Junior High, Grievance
JUAN SABALA, Chollas Elementary, Bilingual/Bicultural
YLLIS BADENHOPE, Wegeforth Children's Center, Children's Centers
CLIFF GOMES, Clairemont Senior High, Counselors
FRED TURNER, Mira Mesa Jr./Sr. High, Bargaining Team
WAYNE CORBIN, Point Loma Senior High, Counselors
JOYCE MANUEL, Montgomery Junior High, Librarians
GEORGE BARTOSIK, Health Services, DANE
DONNA DIERS, Marston Junior High, Nurses
MARLENE SHAW, Guidance, District Counselors
EARNESTINE THORNTON, Sherman Elementary, Special Education
LYNNE CRAWFORD, Schweitzer, Orthopedically Handicapped
LOU BOITANO, SDTA Executive Director, Bargaining Team

(Not Pictured)
TAL BAKER, Morse Senior High, Human and Civil Rights
DR. JOHN ARCHBOLD, Holmes Elementary, Salary
JANE CASSIDY, MacDowell Elementary, Legal Protection/Academic Freedom
BARRY BERNSTEIN, Hancock Elementary, Year-Round Schools
COLLEEN WOODS, Kaiser Elementary, Elementary Reading/Bargaining Team
RUSS ARMSTEAD, Taft Junior High, Bargaining Team
TOM PATTON, Mira Mesa Jr./Sr. High, Bargaining Team
ANNETTE NEVILLE, Guidance, Psychometrist

SDTA BARGAINING PRIORITIES

CLASS SIZE

PROPOSAL:

1. Elementary: Grades Pre-Kindergarten through three - maximum of 25 pupils per class. Grades four through six - maximum of 29 pupils per class.
2. Secondary Level: English classes - maximum of 25 pupils per class. No laboratory or shop class shall exceed the number of fully-equipped student stations provided. All other regular secondary classes shall not exceed 29 pupils or 160 pupils per day - per teacher.
3. Special Classes: Classes for the mentally retarded, learning handicapped, hard of hearing, deaf, blind, partially sighted, physically handicapped and for students with multiple handicaps shall not exceed 12 students, and in no case shall any such special class exceed the limits established by state law.
4. Classes in English as a Second Language shall not exceed 30 pupils per class.
5. For every twenty-five elementary classes or fraction thereof additional teachers shall be assigned in the areas of art, music, and physical education.

STUDENT DISCIPLINE

PROPOSAL: The Board agrees that the district policy mutually agreed upon in 1974-75, and any subsequent mutually agreed upon revisions, shall be fully implemented in 1977-78. In order to facilitate the development of said plan, the Board agrees to provide release time of up to five (5) days for a minimum of twenty (20) per cent of the teaching staff at each site.

Failure to comply shall result in an official reprimand of the site administrator responsible for the implementation of said policy.

DISTRICT FINANCIAL PRIORITIES

PROPOSAL:

1. Increase per pupil classroom expenditure by $150 per year.
2. Reimburse teachers for using their personal automobiles when providing transportation for students on field trips. The reimbursement rate shall be 18 cents per mile.
3. Reimburse teachers for the repair or replacement of clothing, personal items, or vehicles damaged, stolen or destroyed on or adjacent to the school premises or as part of an employment assignment, provided such loss was not caused by the negligence of the claims.
4. Reduce, significantly, the number of administrators at the District office.
5. Do a study on the use of solar energy as a source of heat for any new schools to be constructed.

SALARY

PROPOSAL: 1976-77 salary schedules shall be adjusted by 12% or the increase in the Consumer Price Index (CPI) from June 1976 to June 1977, whichever is greater.

ELEMENTARY PREPARATION PERIOD

PROPOSAL:

1. All elementary school teachers and itinerant teachers shall be provided with at least the equivalent of a thirty-minute preparation period daily within the instructional day. During such preparation period, teachers shall be relieved of all classroom duties and other assignments, so that they are free to use the time for conferences, lesson planning, preparation of instructional materials, etc., as dictated by their own professional judgment.
2. Art, Music, and Physical Education Teachers shall be assigned to elementary schools in such a manner as to provide preparation time for elementary teachers.

MAINTENANCE OF BENEFITS

PROPOSAL: All conditions of employment, including extra compensation for duties outside regular working hours, relief periods, leaves, and general teaching conditions shall be maintained at not less than the highest minimum standards in effect in the district at the time the Agreement is signed, provided that such conditions shall be improved for the benefit of teachers as required by the express provisions of the Agreement. This Agreement shall not be interpreted or applied to deprive teachers of professional advantages heretofore enjoyed unless expressly stated herein.

BINDING ARBITRATION

PROPOSAL: The arbitrator's decision will be in writing and will set forth his/her findings of fact, reasoning and conclusions on the issues submitted. The arbitrator will be without power or authority to make any decisions which requires the commission of an act prohibited by law or which is violative of the terms of the Agreement. However, it is agreed that the arbitrator is empowered to include in any award such financial reimbursement or other remedies as he/she judges to be proper. The decision of the arbitrator will be submitted to the superintendent and the Association and will be final and binding upon the parties to the Agreement.

THE BARGAINING COMMITTEE IS CURRENTLY WORKING WITH SPECIAL INTEREST GROUPS TO DEVELOP SPECIFIC PROPOSALS WHICH MEET THEIR NEEDS.

SDTA-The Real Choice !

SFCTA X ACTION

San Francisco Classroom Teachers Association (CTA-NEA) • 665-6200, 864-6510

February 9, 1977

THANK YOU.

Thanks for taking the time to read the facts and materials we made available to you over the last several weeks.

The determination of a bargaining representative is a critical choice for all of us, both professionally and personally. We believe it is vital for both contending organizations to make every possible effort to communicate their philosophies, strengths and goals.

SFCTA (CTA-NEA) will continue to work hard for City teachers. We will continue to provide full membership benefits for our members and whatever services we can provide for all others. The AFT is now the bargaining representative with the obligation under law to provide representation for all teachers in bargaining matters. Their ability to live up to their promises and our desires can be observed and measured.

We are proud of the campaign we ran. Our statements are on the record. Our contract summary is in your hands. Keep it. Compare what AFT is actually able to deliver. We hope it matches up. If it does not, SFCTA will present our program and goals to you once again a year from now and, if you wish at that time to select the contract and representation we offer, we will be proud to accept that responsibility.

In the meantime, thank you for caring enough to participate in the election process.

San Francisco Classroom Teachers Association

SDTA/CTA/NEA

SAN DIEGO TEACHERS ASSOCIATION
10393 San Diego Mission Road • San Diego, California 92108 • 714-283-4411

OUR PLEDGE TO YOU!

TODAY SDTA KICKS OFF ITS CAMPAIGN TO WIN EXCLUSIVE BARGAINING RIGHTS FOR SAN DIEGO TEACHERS.

IT IS OUR INTENTION TO DIRECT OUR EFFORTS IN AN OPEN, CANDID AND FACTUAL MANNER, DEVOID OF ANY PERSONAL ATTACKS AGAINST THE OPPOSITION. WE WILL BE AGGRESSIVE WITHOUT BEING ABUSIVE: PERSUASIVE, NOT PUSHY.

OUR PLEDGE TO YOU:

- WE WILL DEFINE THE ISSUES AS CLEARLY AS WE CAN.
- WE WILL PRESENT OUR SIDE IN A DISPASSIONATE WAY.
- WE WILL TELL YOU THE TRUTH . . . ALWAYS.
- WE WILL NOT SEND ANYONE TO YOUR HOME AFTER SCHOOL FOR CAMPAIGN PURPOSES. WE FEEL THAT IT IS AN INVASION OF YOUR PRIVACY, AND MAY BE DISRUPTIVE OF YOUR HOME LIFE.

THE CAMPAIGN IS A SHORT ONE. JUST EIGHTEEN DAYS UNTIL THE ELECTION ON FEBRUARY 4TH. WE HOPE YOU WILL READ, LISTEN, EVALUATE AND THEN CHOOSE THE ORGANIZATION YOU FEEL WILL DO THE BEST JOB FOR YOU, PERSONALLY, AND FOR EDUCATION IN SAN DIEGO, GENERALLY.

ONE LAST REMINDER. CLEAR YOUR CALENDAR FOR FRIDAY, FEBRUARY 4TH.

YOUR VOTE WILL COUNT.

FOR UPDATED ELECTION NEWS, CALL THE SDTA OFFICE.

SDTA-The Real Choice !

SDTA/CTA/NEA

SAN DIEGO TEACHERS ASSOCIATION
10393 San Diego Mission Road • San Diego, California 92108 • 714-283-4411

OUR POSITION ON

SALARIES!

SAN DIEGO TEACHERS, LIKE TEACHERS EVERYWHERE, RECOGNIZE THAT AMERICANS GENERALLY LIVE IN AN AFFLUENT SOCIETY. IT'S TIME WE HAD A LARGER SHARE OF THAT AFFLUENCE.

GAINS WON BY SDTA IN RECENT NEGOTIATIONS (18% OVER THE PAST THREE YEARS) ARE IMPRESSIVE. HOWEVER, WHEN COMPARED TO INCREASES IN THE COST OF LIVING, THERE STILL REMAINS A LONG WAY TO GO UNTIL TEACHERS ARE COMPENSATED AT A LEVEL THEY HAVE EARNED AND PROFESSIONALLY DESERVE.

AT THE BARGAINING TABLE, SDTA NEGOTIATORS WILL AGRESSIVELY PURSUE A SALARY INCREASE WHICH WILL SATISFY OUR IMMEDIATE NEEDS AND RE-ESTABLISH A SOLID BASE UPON WHICH TO BUILD IN FUTURE YEARS.

IN THE VITAL AREA OF SALARIES, YOU CAN BE SURE THAT THE SDTA BARGAINING TEAM WILL EXAMINE WITH CLOSE SCRUTINY EVERY AVAILABLE CURRENT INCOME SOURCE, UNCOVER ALL MONIES WHICH MAY BE HIDDEN AS "FAT" IN THE DISTRICT BUDGET, AND SEEK OUT NEW REVENUE SOURCES.

SALARIES ARE A PRIORITY IN SAN DIEGO. YOU TOLD US SO IN THE SURVEY. WE'LL DO SOMETHING ABOUT IT!

SDTA'S BARGAINING POSITION FOR YOU ON SALARIES IS CLEAR:

ADJUST THE 1976-77 SALARY SCHEDULES BY 12%

OR

INCREASE IN THE CONSUMER PRICE INDEX (CPI)
FROM JUNE 1976 TO JUNE 1977, WHICHEVER IS GREATER

SDTA-The Real Choice!

11-1/26/77

"I Would Rate The SDTA Among The Leading Teacher Organizations in the U.S."

Don Morrison is a teacher at Gompers Junior High School.

For two years he was in Washington, D.C., as vice-president, president-elect and president of the NEA from 1971-72. Under his leadership, the first political action group for teachers (NEA-PAC) was formed to evaluate, support and financially back congressional candidates who were friends of education. Also during his presidency, a program was established to seek out minority teachers and get them involved with the NEA.

In 1973, Don was a co-leader of the first official delegation of American educators to visit the People's Republic of China. He was the only k-12 teacher selected for the 1975-76 school year fellowship with the National Institute of Education to consult with all government research agencies on education.

Don is a former president of the SDTA (1964-66) and an outstanding example of the kind of teacher leaders we have in San Diego.

He had a chance to observe many community teacher organizations during those years in Washington and had this to say about the SDTA:

"I would rate the SDTA among the leading teacher organizations in the United States, especially in its ability to bargain to allow teachers to influence the development of student programs and curriculum. Such input has helped to make teachers more effective because they are involved in designing programs rather than just letting administrators do it.

The SDTA has a good record of protecting the rights of teachers and has also been on the forefront of participation in joint programs of research and innovative projects with the CTA and NEA, sharing costs and avoiding duplication. Because of our organization, San Diego teachers have a good name on the national scene."

Don Morrison

SDTA WORKS for teachers

SAN DIEGO TEACHERS ASSOCIATION

ALL TEACHERS ARE INVITED

YOU'RE INVITED TO A...

☒ **SDTA/CTA/NEA**

UNITY PARTY

DATE FRIDAY, FEBRUARY 4th

TIME 3:30 P.M. – 7:00 P.M.

PLACE STARDUST ROOM
MASTER HOST INN
950 HOTEL CIRCLE

LIVE ENTERTAINMENT BY

LOSER'S REVENGE

February 15, 1977

Just when we thought the paper war was over and everyone was ready to get on with the business of forging a new collective bargaining agreement, we have the classic example of the poor loser delaying things again.

On February 11, the San Diego Federation of Teachers filed with EERB objections to the conduct of the San Diego Unified School District during the collective bargaining representation election.

The Federation move blocks certification of SDTA as the exclusive bargaining agent until the objection is ruled on.

The Federation claimed, without elaboration, that the District did the following: (1) interfered with the administration of the Union; (2) encouraged employees to join the Association (3) reneged on a promise by Wayne Spicer that the "release of Union teachers to campaign would be no problem;" (4) denied access to lounges to Union campaigners in certain schools while granting access to Association campaigners in the same schools; (5) released to the Association copies of letters relative to Union dues requests; (6) denied requests of the Union for Association letters relative to dues; (7) refused to comply with a Union request for a copy of a waiver the District received, which the Union claims affected the bargaining unit determination; (8) impeded the flow of Union campaign material through school mail.

The Federation's action might be understandable if the election had been close and they had a real run-off chance. But the SDTA win was a strong statement by teachers in support of the Association and it makes the motives of this action very obvious. The AFT group still places their self-serving Union interests and pettiness above teacher interests.

The Federation's charges require no comment. But we should point out that the EERB Board — beyond which there is no appeal — ruled against item 3 before the election, after the Union filed an identical unfair practices charge against the District.

So here we go again. Bargaining delayed because SDTA certification is delayed by the Federation's action.

Revenge is never sweet.

SDTA/CTA/NEA
WORKS
for teachers

TEACHER ORGANIZING—AFT

In organizing teachers, the American Federation of Teachers emphasizes local autonomy, affiliation with the AFL-CIO, and identification with the labor movement as a whole—as well as its collective bargaining agreements, which the union believes promote the rights of workers, in the traditional labor sense, and at the same time protect teachers' professional interests.

AFT tries to avoid the "bigger is better" argument because it *is* considerably smaller—447,093 to NEA's 1.7 million—but the union points out that both organizations lost members last year. AFT's loss came to about 30,000, which president Albert Shanker attributes to layoffs and attrition.

Chuck Richards, director of organizing for AFT, said in an interview at the AFT convention in Boston last summer *(GERR 723:17)* that "we have had to be better because we've said we are," and he claimed AFT contracts and the union's enforcement of those agreements prove it.

Despite NEA's emphasis on professionalism, Richards said "AFT is doing as much or more professionally" for teachers. The association is one prime source of AFT membership, he added, saying that the union has to offer NEA teacher-members "a positive alternative to what they have known." Affiliation with the AFL-CIO still poses a problem for some teachers who are worried about outside domination of their own organization, but Richards said that fear is based on "stereotyped" ideas. The union is "out front" about its affiliation with the AFL. "It makes the difference for us."

The AFT officers' report to the convention noted that the union chartered three state organization last year—in Alabama, Georgia, and South Carolina—plus 123 locals. The union won 85 representation elections, either challenging an incumbent association or holding on to representation rights. Major single victories were in San Francisco *(GERR 696:22)* in a unit of 5,000 teachers; the 2,788-member unit in Brevard County, Florida, a unit of 3,256 teachers in Jefferson Parish, Louisiana *(GERR 727:22)*, and the Cincinnati Federation of Teachers' unit of 3,148 *(GERR 687:B-19)*.

The merged United Teachers of Los Angeles survived a challenge by the independent Professional Educators of Los Angeles in a unit of 30,000 teachers last winter *(GERR 694:12)*.

AFT has focused on New York during the past year in its ongoing struggle over teacher loyalties following the disaffiliation of the AFT-affiliated New York State United Teachers *(GERR 685, B-19)* from the National Education Association over a year ago. At the time, following the dissolution of that merger attempt, the NEA set up the New York Educators Association. Both organizations have pumped considerable effort and money into the state. Officials of the organizations continue to dispute each other's figures on New York membership *(GERR 727:18)*, and how effective the rival's campaign has been, but Shanker claims AFT has 80 percent membership in a teaching force of 200,000 in the state. Recently, Fred Lambert, assistant to the NYSUT president, reported 169,000 teachers in the state belong to the union and observed that while the new agency shop law—making negotiation of agency fee deductions permissible at the local level—will bring in more revenue, most NYSUT locals have a very high percentage of membership already *(GERR 734:13)*. NEA has "nothing to show but cancelled checks which they wasted" in the onslaught against New York teachers, Shanker said at the convention.

Growth Called "Phenomenal"

In Florida, another state with an NEA-AFT merger disaster on record, the growth of membership has been "nothing short of phenomenal," the annual AFT officers' report said, noting the Brevard County vote, a turnover from NEA. But the Florida campaign has a different emphasis because while AFT has 18,000 K-12 teacher-members in the state, some 11,500 represented by FEA/United are still "no nationals," having chosen to remain with no national affiliation following NEA's withdrawal. The teachers with "no-national" status are mostly gathered in four large locals—primarily in Hillsborough County—and the officers' report noted that "it is expected that those locals will vote for affiliation with the union this fall."

Richards said the organizing picture in Florida is somewhat different in that the "chief unknown" factor for teachers is the impact of affiliation with the AFT and the AFL-CIO. Before the attempted statewide merger, most of the counties in Florida were organized, and most were represented by the association, Richards said, explaining that the issue was thus not whether teachers wanted collective bargaining but whether they wanted AFT or AFL connections. In addition, teachers were worried about whether affiliation would affect their professionalism.

Since passage of California's Rodda Act, AFT has campaigned vigorously and won or retained units in Los Angeles, San Francisco, Berkeley *(GERR 699:18)*, Poway, Petaluma, and El Rancho (units of over 500) in the past year. Raoul Teilhet, president of the California Federation of Teachers, said at the AFT convention that membership including the Los Angeles unit is running at about 52,000, (including members in community colleges, also covered by the bargaining statute) *(GERR 723:22)*.

The California Teachers Association, meanwhile, has lost a "substantial" number of school districts, Teilhet claimed.

Before the elections began in May of 1976, AFT did an intensive survey of locals analyzing the chances of winning, and during that period staff members from the national offices in Washington "spent a lot of time trying to convince locals to pull out of elections" where it was felt they would lose, reported John Stevens, one of three AFT field services directors assisting Richards.

One of the interesting losses was in the Clovis Unified School District, where the school board conducted such a well-organized campaign that it convinced teachers to vote "no representation" in a runoff against CTA—after the 244-member unit had decided against AFT in the first round. George Kastner, associate superintendent for administration, said the district received national publicity and was "deluged" with requests for copies of its organizing—or anti-organizing—literature. But the district felt that each school system should develop its own approach to organizing campaigns, based on the teachers in the district and history of the unit, Kastner said, and the material was not distributed.

"Many people didn't think the board can take a position," he commented. "We're the only district of any state that did anything."

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However, AFT won in Poway *(GERR 690:18)* and El Rancho, Stevens noted, and the Poway win was "probably . . . our best." The union went into the election with 26 percent membership and 42 percent of the unit on the election petition and won 53 percent of the vote. And it also had conducted an "intensive home visit campaign" during which "dozens" of teachers visited every teacher in the unit. The local people were "very active," he commented.

The El Rancho vote was "one of the surprises" because the union would have expected 40 percent of the vote and got 60 percent. The association local was the majority representative there, Stevens explained, and had—with the cooperation of the AFT affiliate—conducted a strike between the election petition drive and the election. The AFT local and staff "won a lot of credibility" during the strike and the victory was "directly connected with the fact that we did a good job on that strike," he said.

The big win in San Francisco ended a four-month campaign during which the AFT and NEA affiliates reportedly spent $50 per teacher on mailings, entertainment, advertisements, and television commercials.

AFT's Southern Strategy

At the convention, Shanker and union organizers outlined the union's new "southern strategy"—a concerted effort to organize teachers in the South. Gene Didier, a director of AFT field services, explained the campaign will focus on the 13-state area extending from North Carolina south and into the Southwest *(GERR 723:21)* and that staff and resources being allocated accordingly. Texas will be a major target, Didier said.

In Georgia, one of the newly chartered state federations, membership grew 71 percent in 1976-77, the officers' report stated. Most of the expansion was in Atlanta, according to Didier, which is "growing fantastically." The AFT membership there is "not at 1,000 yet" but compares very favorably with last year's figure "in the low 100s." Didier said NEA's "public figure" is 2,200 out of a unit of 4,000 teachers. There's no bargaining in Atlanta but the school board has a negotiating team "of sorts" which meets with both teacher organizations, and both then claim credit for any improvements in working conditions, Didier reported.

He admitted that for AFT members, the strike by the American Federation of State, County, and Municipal Employees against the City of Atlanta last spring *(GERR 708:20)* "did not help" in terms of membership recruitment. Teachers were "side by side" with the striking union, Didier said.

Savannah has a cluster of AFT members—about 300 now—after losing two elections since 1971, the first by only 36 votes in July of that year, when the union had around 500 members, and the second, two years later, by a vote of 980 to 680. However, everyone lost out because the Savannah school board, after allowing the elections, decided not to bargain anyway, Didier reported.

In Texas, which like Georgia has no collective bargaining law for teachers, "nobody approaches realistic bargaining," Richards said. San Antonio has "a phony substitute" for negotiations, much like meet and confer. He said the Texas State Teachers Association is "still actively opposing bargaining," noting that membership in the association includes "active" administrators. In Texas, AFT continues to emphasize the "professionalism" aspect of the union's position and overall activities, Richards added.

But Richards also insisted that beyond regional differences in attitudes, local school systems are very similar because their purposes and problems are "universal." All teachers face educational and personal difficulties, and it's a question of AFT persuading them to "transfer the frustrations" into coordinated action. They first have to be convinced "there's some basis for hope" and then are told about historical developments in bargaining in other states. There are "a few key battles" like this that have to be won to turn teachers around, Richards said declaring: "The majority of teachers in Texas right now would probably state there would never be collective bargaining in Texas." Richards says they're wrong.

AFT's Jefferson Parish election last April took away a unit of some 3,200 teachers from the Louisiana Teachers Association because, according to JFT president Jan Skelton, the association hadn't performed for teachers in the past. Although the union has less than 50 percent membership in the unit, it threatened to strike in recent negotiations and finally signed a contract with the school board—one of two in the entire state *(GERR 727:24)*. Teachers in the conservative district "are beginning to believe in us," Skelton reports.

Statistical Patterns Emerge

A statistical analysis of elections AFT has participated in during the last five years has revealed some basic trends, according to a study conducted under Stevens' direction. The survey, prepared for the state federation presidents' meeting during the Boston convention, indicates AFT can win if the following factors exist:

- ► AFT membership of at least 30 percent of the unit;
- ► Association membership of less than 55 percent of the unit;
- ► A petition drive encompassing more than 50 percent of the unit;
- ► A group of dedicated staff and local people.

The study was based on data provided by state and local federation affiliates, where possible, during the past five years. Elections covered by the report were in California, Connecticut, Florida, Indiana, Louisiana, Massachusetts, Minnesota, Missouri, New Jersey, Ohio, Pennsylvania, and Wisconsin.

Based on those elections, the key to success in an election seemed to be membership figures, the study indicated. The average local that won an election in the past year had 35 percent membership, while the association averaged 46 percent of membership in the same unit.

"This factor shows that the AFT locals very rarely enter into a campaign on an even basis. For the most part in elections that are won AFT locals trail the association in membership by 11 percent of the unit."

Petition drives are second most important in the overall campaign, according to the data. The average AFT election victory was based on a petition drive of 55 percent of the unit, the study showed.

Winning an election helps. Membership expands 40 percent on the average during a period of one year prior to the vote to six months after it, with most of the growth taking place prior to the election, the study indicated.

When AFT loses, it's because the membership probably ranged from 5 to 25 percent of the unit, while the association had more than 55 percent of unit and a petition drive fell below 50 percent.

"When the above three factors exist in any given local the union would be lucky to win one out of a hundred," the report observes.

The average losing local from the past year had a membership of 21 percent, ranging in specific cases from 8 percent to 32 percent. On the average, the association held 63 percent membership in those elections. Losers on AFT's side averaged a 42 percent petition drive, varying from 30 percent in actual cases to 54 percent of unit.

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"The importance of a full petition drive with success in excess of 55 percent cannot be understated," the report declared. "One on one contact with all the members of a unit is basic organizing. The petition drive allows the local to feel out *all* of the unit and not just the minimum needed to get on the ballot."

Figures indicated "a full 25 percent" of AFT locals which were defeated cut off petition drives at 30 percent, the report says.

"Organizers so often hear the statement from locals that even if the local loses the election it will be good for them. *HOGWASH!*"

Taking Inventory

During organizing, AFT asks locals to fill out a "collective bargaining readiness inventory" listing information on the contested unit: the current bargaining agent, certification, agency shop (yes or no), history (strikes), and a timetable that would have to be followed if an election were to occur under a bargaining law—or what has to happen, in the absence of a law, before a vote can be held. Locals are asked to describe the unit structure, membership in AFT, NEA, or other groups, and to provide detailed lists of members and eligible voters per building. The national office requests information on budgets and how much dues money is going to either AFT or NEA or other organizations.

Locals are asked to describe the available communications system (newspapers, a telephone tree), major issues that would lead to an AFT victory, issues that would prevent employees from voting for the union, and past activities by the local that would contribute to a successful campaign.

Following the election, locals are asked to fill out another form detailing results—ballots cast as well as money spent.

Material Developed Locally

AFT staff approach on organizing campaign "in a consulting fashion," according to organizer Stevens. They help train organizers and assist in developing organizing techniques, but most of the workers must still be teachers from the district. "Local people have to have an awfully significant role."

A key element in organizing is the influence of peers, according to Stevens and that is best exercised in home visits. Teachers are asked to avoid making an "evangelistic" approach to a prospective AFT voter or member. Instead, they should provide an opportunity, away from the distractions—or intimidation—of a teacher's lounge, for discussion and questions. Giveaway literature is a valuable informational and visual tool, Stevens said. A good example of that, he said, is a small AFT-printed datebook with the date, time, and location of balloting, with an "X" for AFT, stamped in the appropriate space—an effective reminder of the upcoming election.

Social events—parties, dances, outdoor gatherings—provide an opportunity for mingling and reinforcement ("it has a psychological effect") and possible recruitment, although throwing a party for the "regulars" gives them more support as well, Stevens said.

AFT is skeptical of "the invitation to debate" because a debate can amount to little more than grandstanding, or "an exercise in show business," particularly if the speakers are from out of town and can't tell teachers anything about local issues. It's meaningful if the participants are the local presidents, Stevens said.

Organizing literature is developed at the local level, although standard themes—"AFT Bargains Best"—are passed from one campaign to the next. Campaign materials fall into various categories, Stevens said. The union usually opens a drive with a letter from the local president—"almost a fair campaign practices pledge"—which describes the issues and says, "We'll be around."

Later in the campaign, the issues are expanded into a "menu" form of leaflet or flyer which sets forth the union's positions on a range of items. Comparison literature sets AFT against NEA, line by line, as does material on local dues structures. The union reproduces favorable press clippings and distributes those, too.

"Beautiful people" literature is something teachers like to see, Stevens said. Basically, the materials are testimonials, with photographs, by teachers explaining why they prefer AFT. The beautiful people flyers are a standard form of organizing material, he said and they're effective because they're personal and allow identification with the local leaders.

Previously, the union believed all teachers were either on one side or the other—AFT or NEA—Stevens continued. But now there's a no-man's-land developing somewhere between the two. "Membership isn't all quite as automatic," and "allegiance isn't quite as simplistic." However, the nonjoiners are increasing in NEA's ideological territory, not AFT's, Stevens said.

An agency shop situation "doesn't necessarily solidify the bargaining agent," he continued. Teachers are asking more of their organizations as everyone becomes more sophisticated and members expect better representation. Because teachers paying agency shop fees can no longer protest by withholding their monetary support, unions will be increasingly called to account for their performance, Stevens predicted.

Following is a representative sampling of AFT organizing literature.

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ACTIVITIES AND ISSUES

1. Describe briefly major issues that would lead the employees in the school system to vote for the AFT.

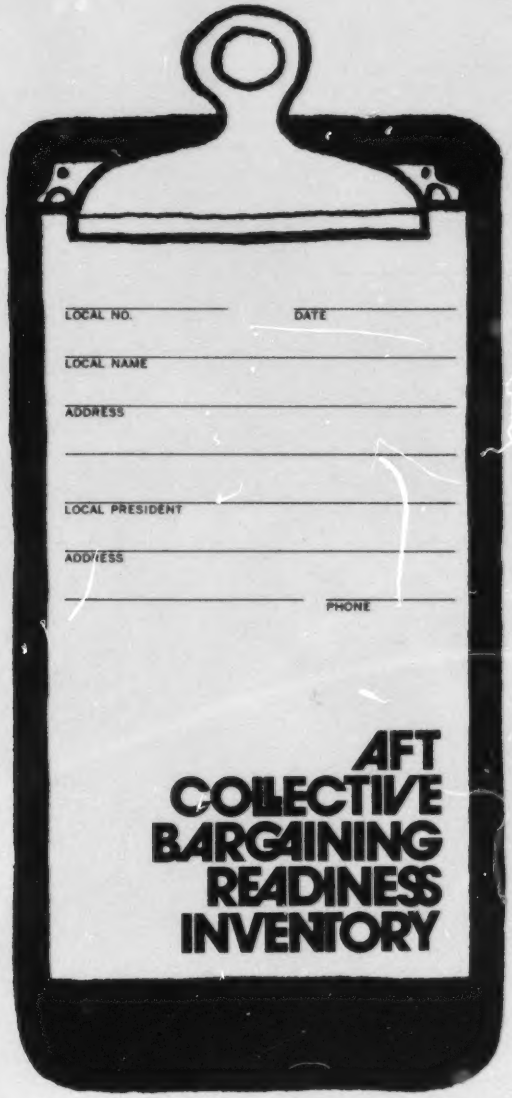
2. What issues would prevent employees from voting for AFT?

3. What activities has your local engaged itself in the last year that would enhance its chances of winning the election?

Other comments:

23

American Federation of Teachers, AFL-CIO
11 Dupont Circle, N.W., Washington, D.C. 20036



C2

2H

1. What is the description of the contested bargaining unit:

	Yes	No
2. Is there currently a certified exclusive bargaining agent for the employees in the above unit?	☐	☐
3. Was the agent certified as the result of secret ballot election? If not, how certified?	☐	☐
4. Does the bargaining agent have agency shop or some other form of organizational security? Specify.	☐	☐
5. If there is no bargaining agent, or if AFT local is the agent, has some other organization petitioned for an election? If so, give specifics of that action.	☐	☐
6. Has the bargaining agent ever conducted a strike action? If so, what role was played by the AFT local?	☐	☐

7. Outline the timetable which must be followed to cause a collective bargaining election to occur (dates for petitioning, legal restrictions, projected election date, etc.). If no collective bargaining law applies, what must be done to be certified as collective bargaining agent?

STRUCTURE

1. Number of employees in bargaining unit _____
2. AFT local's membership:
   Current _____
   One year ago _____
   Two years ago _____
3. NEA local membership:
   Current _____
   One year ago _____
   Two years ago _____
4. Other (specify) _____ membership:
   Current _____
   One year ago _____
   Two years ago _____
5. On a separate sheet, list, for each building/department, the number of eligible voters, number of AFT members and name of AFT representative.

	Yes	No
6. Does your local have a current list of the names, addresses, home telephone numbers, organized by assigned building/department of all members of the bargaining unit?	☐	☐
7. Has your local conducted an authorization petition drive? If so, what language was used on the petition (AFT prefers "hard card" authorization) and what were the results of the drive?	☐	☐

RESOURCES

1. List the dues structures of the competing organizations:

	AFT	NEA	Other _____
Total	_____	_____	_____
National	_____	_____	_____
State	_____	_____	_____
Labor Council	_____	_____	_____
State AFL-CIO	_____	_____	_____

	YES	No
2. Has your local adopted an annual budget? If so, attach a copy.	☐	☐

3. Attach a copy of the most recent cash balance sheet.
4. How much could your local contribute to the costs of a collective bargaining campaign? _____

	Yes	No
5. Does your local have an office?	☐	☐

6. What equipment is currently possessed by your local?

7. If you have no office or equipment, what arrangements do you plan to make for the campaign?

COMMUNICATIONS

	Yes	No
1. Does your local publish a newsletter regularly? If so, how often? _____ To whom is it circulated? _____ _____ Attach a copy.	☐	☐
2. Does your local regularly issue special bulletins for building/department reps and/or other leaders?	☐	☐
3. Does your local have a system that can distribute union materials to every employee in the system?	☐	☐
4. Does your local have a telephone tree or some other mechanism for communicating quickly with all AFT members?	☐	☐

5. List any restrictions imposed on AFT activity in the buildings.

AMERICAN FEDERATION OF TEACHERS
ELECTION RESULT FORM

STATE _____ _____ _____ LOCAL NAME AND NUMBER _____

ELECTION DATE _____ NUMBER OF ELIGIBLE VOTERS _____

AFT MEMBERSHIP _____ AFT PETITION _____ CLAIMED NEA MEMBERSHIP _____

NEA PETITION _____ OTHER MEMBERSHIP _____ OTHER PETITION _____

NAME(S) OF OTHER ORGANIZATION(S) _____ _____

ELECTION RESULTS

AFT	_____	NO REPRESENTATION	_____
NEA	_____	TOTAL BALLOTS CAST	_____
OTHER	_____	CHALLENGED BALLOTS	_____
		TOTAL VALID BALLOTS	_____

List staff and/or release time used in AFT campaign.

_____ _____

_____ _____

_____ _____ _____

EXPENSES

AFT CONTRIBUTION	_____
STATE FEDERATION CONTRIBUTION	_____ _____
LOCAL CONTRIBUTION	_____
OTHER _____	_____
Total cost of campaign	$ _____

Enclose a complete set of AFT and NEA campaign literature.

Comment briefly on the general theme and methods used by both the AFT and NEA in the campaign.

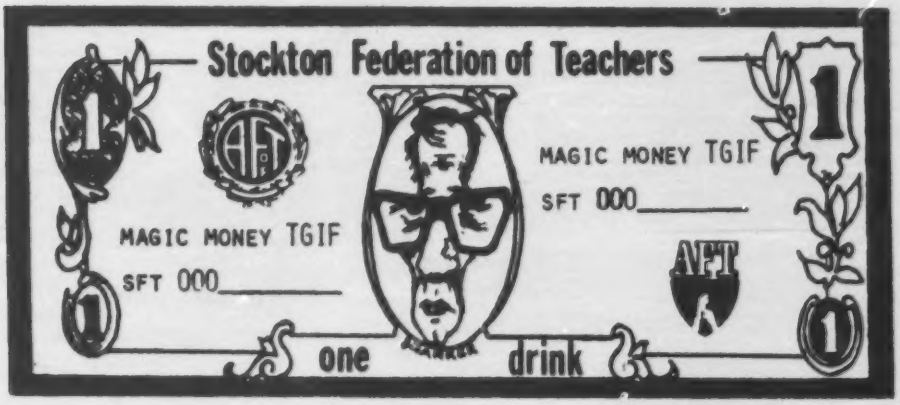
_____ _____

SUBMITTED BY DATE

WHO KNOWS WHAT EVIL LURKS IN THE HEARTS OF MEN?
Lamont Cranston (The Shadow)
AFT
SPEAK! Bare your thoughts!
Six months ago SDTA - CTA came out in favor of AGENCY SHOP!
Did the teachers vote on the issue?
No. The 2,000 who don't belong to any group would have voted against $184 a year agency fees!
Find out how much of this money they'll use for higher staff salaries!
You didn't get much information from him, did you?
Oh! But I did, Margo!

Vote NO on agency shop.

vote sdft



MAGIC MONEY

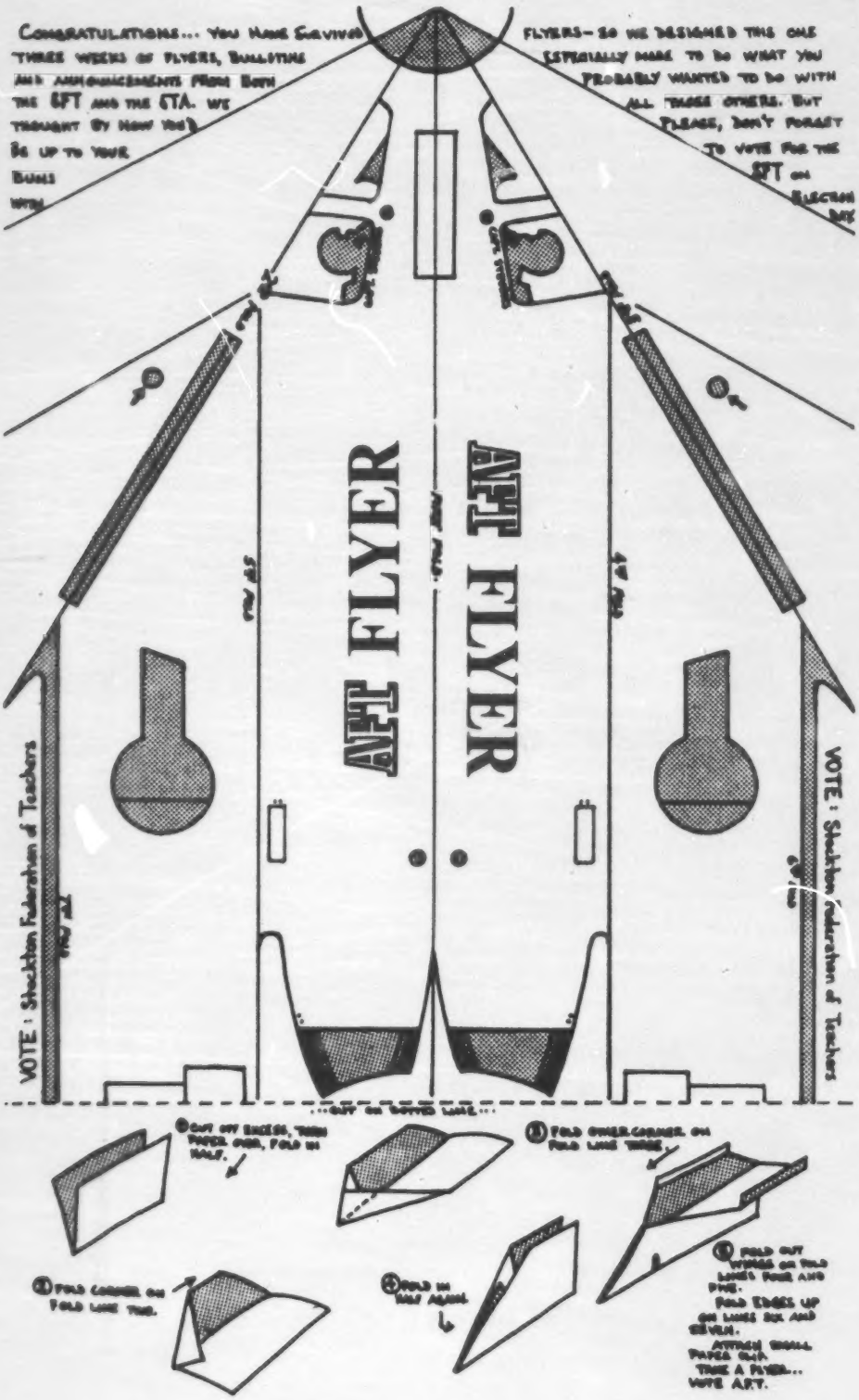
TGIF

IN YOUR BUILDING THERE IS AT LEAST ONE OTHER PERSON WHO HAS A MAGIC MONEY HALF WITH THE SAME SERIAL NUMBER AS YOURS. FIND SUCH A PERSON AND BRING THEM AND YOUR MATCHING HALVES TO THE TGIF. THE SFT WILL BE PLEASED TO BUY EACH OF YOU A COMPLIMENTARY DRINK. HOPE TO SEE ALL OF YOU AT ...

Place: HOLIDAY INN 221 North Center
Date: FRIDAY, OCTOBER 1, 1976
Time: 3:00 - 5:00 P.M.

ADDITIONAL DRINKS - 50¢

STOCKTON FEDERATION OF TEACHERS, Local 1287


CONGRATULATIONS... YOU HAVE SURVIVED THREE WEEKS OF FLYERS, BULLETINS AND ANNOUNCEMENTS FROM BOTH THE SFT AND THE STA. WE THOUGHT BY NOW YOU'D BE UP TO YOUR BUNS WITH
FLYERS—SO WE DESIGNED THIS ONE ESPECIALLY MADE TO DO WHAT YOU PROBABLY WANTED TO DO WITH ALL THOSE OTHERS. BUT PLEASE, DON'T FORGET TO VOTE FOR THE SFT ON ELECTION DAY
AFT FLYER
AFT FLYER
VOTE: Stockton Federation of Teachers
VOTE: Stockton Federation of Teachers
...CUT ON DOTTED LINE...
CUT OFF EXCESS, THEN FOLD OVER, FOLD IN HALF.
FOLD OTHER CORNER ON FOLD LINE THREE.
FOLD CORNER ON FOLD LINE TWO.
FOLD IN HALF AGAIN.
FOLD OUT WINGS ON FOLD LINES FOUR AND FIVE. FOLD EDGES UP ON LINES SIX AND SEVEN. ATTACH SMALL PAPER CLIP. TAKE A FLYER... VOTE AFT.

How you can vote PFT and still keep your CTA auto insurance!

If AFT wins the election, the special services offered to CTA members — e.g. credit union, insurance, etc. — will not be jeopardized.

A collective bargaining election is held to determine which organization will represent all teachers in negotiations with the school board.

The forthcoming election will not determine the organization you will belong to. The law says only you can do that:

> **Public school employees shall have the right to form, join, and participate in the activities of employee organizations of their own choosing for the purpose of representation on all matters of employer-employee relations. Public school employees shall also have the right to refuse to join or participate in the activities of employee organizations . . . (Rodda Act. Section 3543).**

If AFT wins the election, teachers will be free to continue their CTA membership if they so desire.

We think we can negotiate a better contract.

That's why we're asking for your vote.

VOTE PFT

AFT

SUCCESS FOR A CHANGE

Wanda K. Faust, President Nov. 7, 1976

SFT/*WHERE WE STAND*

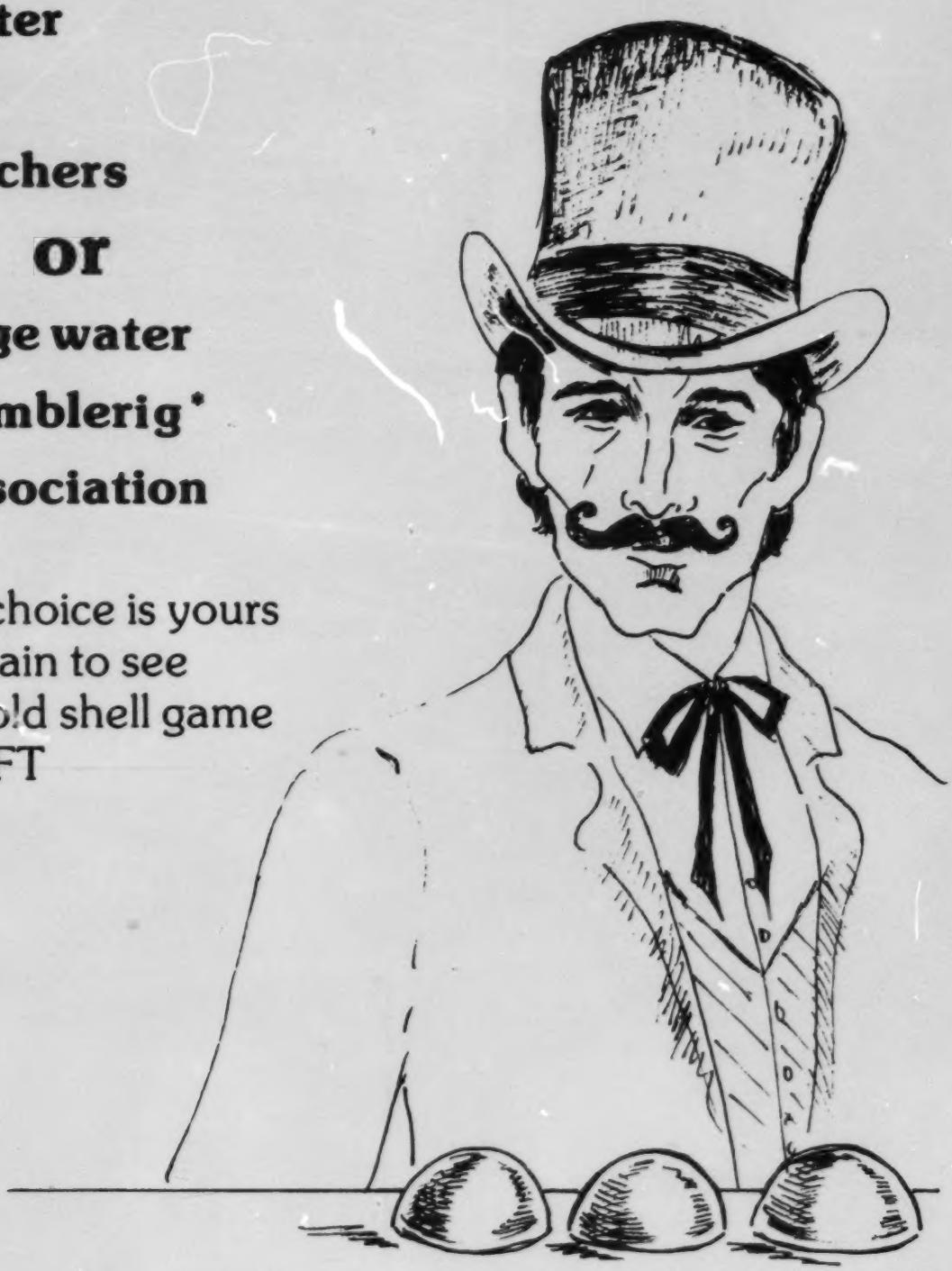
Don't look a gift horse in the mouth. The old gray mare she ain't what she used to be. (she never was!)
You can lead a horse to water but you can't make him negotiate.
Don't beat a dead horse!

Whatever your favorite cliche is concerning horses The Savannah Federation of Teachers believes that good horse sense will prevail when choosing a bargaining agent. The Savannah Federation of Teacher's racing silks have been multi-colored to date and hopefully the bargaining race will force the Chatham Association of Educators to show their colors.

Don't horse around!
Vote Savannah Federation of Teachers!

Better For Teachers or Bilge water Thimblerig* Association

The choice is yours
It's plain to see
The old shell game
Or BFT



***Thimblerig — A swindling trick in which a small ball or pea is quickly shifted from under one to another of three small cups to fool the spectator guessing its location.**

Prepared and paid for by an individual member of BFT

STRIKE TABLE—FALL 1977

According to BNA's tabulation, as of October 4 of this school year there have been approximately 60 teacher strikes in 12 states.

The largest strike involved some 1,900 teachers affiliated with the National Education Association in Mt. Diablo, California, and ended on September 23 after the teachers voted to submit their dispute to a three-member fact-finding panel. The panel was to be composed on one representative each from the school district, the teachers, and the state department of education. Other major walkouts included some 1,760 NEA-affiliated teachers in Flint, Michigan, and 1,600 AFT-affiliated teachers in Yonkers, New York.

Besides pay, representative strike issues in 1977 have included transfer policies, layoffs, class size, and extracurricular duties.

BNA's tabulation follows:

School District	Teachers Affected	Pupils Affected	Strike Date	Settlement Date	Issues
CALIFORNIA					
Mt. Diablo	1,900 (NEA)	41,000	9/9	9/26	Back with binding factfinding.
Santa Maria	(NEA)		9/19	9/26	Ratified contract 9/23.
ILLINOIS					
Belleville H.S.	283 (AFT)	6,000	8/29	8/31	(Settled.)
Danville	500 (NEA)	9,000	8/22	8/29	Back under court order.
Joliet Jr. College	(AFT)		9/19	9/30	Negotiation breakdown, workload, salary, pay for strike days. (Settled.)
Seneca	22		9/6		
Thornton Community College	130 (AFT)		9/16	10/3	Salary. (Settled.)
INDIANA					
Anderson	900 (AFT)		8/26	9/9	(Settled.)
LaPorte	340 (AFT)		9/14	9/26	Salary, insurance, transfer policy, reduction in force. (Settled.)
MASSACHUSETTS					
Franklin	265 (NEA)	5,000	9/16	9/30	42 teachers in jail as of 9/26; 100 arrested. Salary, class size, protection for teachers with higher seniority. (Settled.)
MICHIGAN					
Bay City	700 (NEA)		9/5	9/14	(Settled.)
Birmingham	640 (NEA)			9/8	
Clawson	172 (NEA)	3,500	9/15 9/27	9/16	Sickout. Pace of contract talks. (Settled.)
Davison	250 (NEA)	6,000		9/15	(Settled.)
Dexter	(NEA)			9/12	
Flint	1,760 (NEA)	42,000	9/7	9/27	Back under court order.
Grass Lake	(NEA)		9/16	9/26	Back under court order.
Highland Park	485 (AFT)		9/6	9/15	Back without contract.
Madison Heights	(NEA)			9/10	
North Branch	103 (NEA)	2,600	9/14	9/28	
Waterford	779 (NEA)	17,896		9/12	
West Bloomfield	300 (NEA)		9/8	9/13	(Settled.)

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School District	Teachers Affected	Pupils Affected	Strike Date	Settlement Date	Issues
NEW JERSEY					
Bridgewater-Raritan	600		9/8	9/14	(Settled.)
Green Brook	78	1,150	9/9		
Manalapan-Englishtown	(NEA)			9/16	Striking one day per week. (Settled.)
Matawan	405	6,600	9/16		Salary, contract language.
NEW YORK					
Lakeland	430 (AFT		9/6		No progress in talks.
Yonkers	1,600 (AFT)	26,000	9/7	10/3	No increase proposed. (Settled.)
OHIO					
Jefferson County	40 (AFT)		9/27		Back under court order.
Lake County	(NEA)		10/4		Out again 9/4.
Meigs County	140	3,000	8/30		
Osnaburg	70	1,500			(Settled.)
Plain	405	9,300	9/12	9/14	Tentative contract.
Amherst	190 (NEA)	4,300	9/21		Salary.
PENNSYLVANIA					
Bradford	285 (NEA)	5,000	9/6	10/3	(Settled.)
Brentwood	90 (NEA)	1,700	9/14	9/31	(Back with tentative contract.)
Cameron	84	1,600	8/29	9/1	
Chartiers-Houston	104 (AFT)	1,950	9/6	9/12	(Settled.)
Chicester	230 (NEA)	4,600	9/7		Lockout.
Delaware County Community College	87	5,000	8/22		Class size.
Fox Chapel	395 (NEA)	7,000	9/1	9/27	Salary.
Gateway	420	8,500	8/30	9/6	
Jefferson County Vo-Tech	(NEA)		9/7	10/3	(Settled.)
Montour	213 (NEA)	5,400	9/9		
Northwestern	120	2,700	9/1		
Penn-Trafford	218	4,600	8/30		
Richland	129 (NEA)	3,000	8/22		
Ringgold	310	6,000	8/22	9/1	
Riverside	135	2,800	9/12		Salary in wage reopener.
Southeastern Vo-Tech	108 (AFT)		9/6	9/12	Back under court order.
Upper Darby	565 (NEA)	11,000	9/7	10/3	Salary, elimination of playground duty. (Back with "final best offer" arbitration.)
Wyoming Area	186 (NEA)	3,800	9/6	10/3	(Settled.)
Coventry	330 (AFT)	5,800	9/6	9/26	291 teachers suspended, then reinstated. (Settled.)
Hopkinton	(NEA)		9/9	9/15	(Settled.)
North Providence	(AFT)		9/6	9/7	(Settled.)
WASHINGTON					
Bainbridge	122 (NEA)	2,400	9/26	10/2	(Settled.)
Grainger	56 (NEA)		9/19	9/22	(Settled.)
Mathow Valley	35 (NEA)	700	9/6	9/16	(Settled.)
Omak	(NEA)		9/22	9/28	(Settled.)
Renton	650 (NEA)		9/6	9/7	(Settled.)

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Although most teachers only have classroom responsibilites lasting for 10 months, their contracts have traditionally run for one year. In 1976-77, contacts continuing in effect for more than one year became more common. In addition, more wage agreements are expiring during the middle of the school year—meaning that many strikes might not have been avoided in 1977-78 but rather postponed.

School boards and teacher unions differed considerably in 1976-77 on the usefulness of collective bargaining statutes and the relative financial worth of teacher salaries.

Collective bargaining statutes are "wrecking" local school districts by forcing school boards to play "play footsie" with taxpayers' pocketbooks, the president of the National School Boards Association declared in 1977 at a school board convention in Utah.

The Rev. George W. Smith of San Diego conceded that school boards were once insensitive to teachers' needs and salaries. "That is not the case now. The day is long past when teachers can go around saying they are being paid like Presbyterian or Mormon missionaries to Africa."

He noted that the average salary of a San Diego teacher is $16,000 annually. "That's not bad for 10 months of work, Smith said. "I have yet to see where collective bargaining has improved the quality of education for children," he continued. "I don't feel I have any business as an elected official in bargaining away your pocket book," Smith said. He declared it "immoral to place public officials in a position where they must bargain the taxpayers' billfold away."

In the private sector, the employer can reject union demands and "close up shop, but we can't close the schools," the NSBA chief said. School board members "are going to have to tell teachers if they want to go out on strike to go on out and answer to the public," Smith declared, adding that teachers who do strike "are walking out for more money for themselves, not for better education for children." *(GERR 687:B-21)*

In 1977 the average teacher salary was $13,298, a 5.5 percent improvement over 1975-1976.

This salary was termed "simply inadequate," as "a measure of life style," according to Terry Herndon, NEA Executive Director. But when described as compensation for "the enormous responsibility (teachers) bear it becomes a pittance and an outrage," he added.

Furthermore, Herndon asserted, since 1973-74, the Consumer Price Index has risen 24.3 percent, while the average teacher salary rose only 23.4 percent, so on the average teachers have $81 less in buying power. Only 16 states have had any real growth in teaching salaries, he said, and "even this has required longer, tougher, more bitter and more expensive strikes."

Approaches

These differing viewpoints toward collective bargaining in education produced several new approaches toward negotiating in 1976-77 including "collective gaining," "prenegotiations," and "regional bargaining."

"Collective gaining," an informal procedure designed to sidestep the formal collective bargaining process, produced a new two-year contract between the Helena, Mont. school board and the Helena Education Association, both of whom sought to avoid the adversary approach to negotiating spelled out in the state Public Employee Collective Bargaining Act *(RF 51:3511)*.

Disturbed by the problems encountered in other school district negotiations throughout the state, the Helena board and HEA last year appointed two board members, two administrators, and four teachers to try "collective gaining." Beginning last September, the committee met informally twice a week to discuss contract issues and submitted a tentative list of provisions in January to both the school board and the HEA membership *(GERR 705:22)*.

The Auburn-Washburn Unified School District 437 in Kansas announced settlement on a 1977-78 contract with the Auburn-Washburn Kansas National Education Association, only about four months after the parties reached agreement on their 1976-77 pact. Irvin Meyers, district superintendent, attributed the parties' early agreement to use of the "pre-negotiation" technique. He said the parties sat down to discuss "concerns" instead of demands and offers. The school administration came up with the idea, according to Myers, because the parties came to terms so late in the year on a 1975-77 contract reaching accord in late July *(GERR 669: B-18)*. "Everyone was pretty distressed after last year and through this distress these changes were proposed," Myers reported. During pre-negotiations, the number of items to be negotiated was limited and those subjects were limited to local problems *(GERR 687:B-20)*.

Rather than concentrating on purely local concerns, leaders of the Michigan Education Association (MEA) voted to make regional bargaining one of their goals in 1977-78 contract negotiations. The 625 teacher representatives stopped short of endorsing a proposal for a single contract covering all MEA members in a given geographical area, but did agree to seek common expiration dates for contracts within regional bargaining units.

The teachers met for a two-day statewide convention described by officials as part of the effort to implement regional bargaining—a policy adopted by the MEA Representative Assembly last fall and already operating in some parts of the state. Under the policy, it is up to the individual locals to decide the size of the regional unit to which they belong. The unit may be a county, part of a county, or as large as several counties, spokesmen said.

The policy is aimed at coordinating bargaining strategy to achieve more favorable contracts, according to MEA officials, and not to threaten school boards with the prospect of regionwide strikes *(GERR 707:22)*.

This fall a dozen small school district teacher associations combined into a regional bargaining unit to attempt to bring about standardized pay scales in Wayne County, Michigan. An MEA official said this was the first such unit in the nation and "if it works here we will try to export it." The concept may reduce the number of job actions, because 67 percent of all the members of the regional unit would have to approve a strike.

Who Can Negotiate?

In addition to the question of what kind of collective bargaining approach should be utilized in negotiations, teacher unions and school districts in 1976-77 explored the sensitive

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issue of the proper negotiators and their negotiating responsibilities.

High school principals, while part of the "administration" also function as supporters and leaders of teachers. This "schizophrenic" position inevitably leads to certain bureaucratic and labor relations conflicts. According to a decision by the Eighth Circuit Court of Appeals, a high school principal has no constitutional right to negotiate for a teachers union. The court ruled that the Davenport, Iowa school board acted lawfully when it refused to renew the principal's contract, holding that the board's interest in efficient school administration outweighed any right the principal may have had to associate freely with the teachers union. (*GERR 691:12, Norbeck v. Davenport Community School District et al*; USCA 8, No. 75-1613, November 29, 1976.)

The role of middle management in collective bargaining is an issue affecting the concepts of the administrative team and illustrates some lingering differences between the NEA and AFT. The former accepts middle management, and the latter, according to Shanker, "believes there are differences in the functions of teachers and supervisors" and that it would "corrupt" both to have them represented by the same group *(GERR 690:10)*.

In 1976-77, substitute teachers won the right to bargain collectively in Eugene, Oregon. The Oregon Employment Relations Board stated: "There is no valid issue about whether the substitute teachers are public employees when they are in fact hired, since the statutory definition does not exclude them, and when hired, they are then on the public payroll. *(GERR 677:B-5, Engene Substitute Teacher Organization v. Eugene School District 4-J;* Employment Relations Board of the State of Oregon, Case No. C-141-75, August 27, 1976.)

There was also one significant decision in 1976-77 affecting the rights of non-teaching employees in the area of wage negotiations.

The Massachusetts Labor Relations Commission decided that the Medford School Committee violated the state's public employee bargaining law by agreeing to provide wage parity for school employees based on the outcomes of negotiations with the Medford Teachers Association. Adopting the findings of its hearing officer, the Commission held that such parity arrangements restrain an exclusive representative in fulfilling the obligation to bargain on behalf of employees it represents.

In the Medford case, the school committee promised to tie wage agreements with unions representing cafeteria workers, school nurses, and administrators to the increases negotiated by the teachers. The Commission ordered the committee to cease offering the protective parity provision and to stop interfering with employees' rights under the state bargaining law *(RF51:3011)* (*GERR 704:16, Medford School Committee and Medford Teachers Association;* Mass. Labor Relations Commission, Case No. MUP-2349, January 26, 1977.)

Scope of Negotiations

Even if school boards and teachers agree on the methods and proper representation during collective bargaining, they often find themselves in disagreement on the scope of negotiations.

The basic question involved in the issue of scope of negotiations is whether or not a particular issue is a permissive or mandatory subject of negotiation. Mandatory subjects require good faith bargaining by both sides. Parties are not under any obligation to bargain on permissive subjects.

In 1976-1977, the following subjects were ruled permissive bargaining issues by employment relations boards, courts, and arbitrators.

► Replacing the non-teaching duty period of a teacher with a classroom teaching period that does not result in an increase of the teacher's workday (*GERR 710:25. Board of Education of Borough of Verona and Verona Education Assn;* Docket No. SN-76-33, Feb. 18, 1977).

► Changing a parent-teacher conference program without changing working hours. (*GERR 701:31, Parsippany-Troy Hills Education Assn. and Parsippany-Troy Hills Board of Education;* Docket No. SN-76-49, Dec. 22, 1976).

► Continued employment of duty-aides. (*GERR 701:31, South Plainfield Education Assn. and South Plainfield Board of Education;* Docket No. SN-77-9, Dec. 22, 1976).

► Involuntary transfer of administrative assistant from one school to another. (*GERR 693:29, Trenton Board of Education and Trenton Administrators and Supervisors Assn;* Docket No. SN-76-27, Nov. 24, 1976).

► Index for Teacher Effectiveness containing various criteria for assessing teacher performance. (*GERR 719:11, Richfield Park Board of Education and Richfield Park Education Assn;* NJ PERC, No. 77-71, Docket Nos. SN-76-29, SN-77-2, June 22, 1977.)

► Teacher protection for student assaults; number of weekends to be included in Christmas and Spring vacations; right of teachers to inspect material in their personnel files from out-of-town district sources. (*GERR 675: B-9, Washoe County Teachers Assn. vs. Washoe County School District* et al; Nevada LGEMRB, Case No. A1-045297, Item 56, Aug. 1976.)

► The following issues were considered mandatory subjects for bargaining;

► Reduction in work year of elementary vice-principals. (*GERR 701:31, Piscataway Township Board of Education and Piscataway Township Principals Assn.*, Docket No. SN-77-3, Jan. 27, 1977.)

► Processing grievances during working hours and providing group and health insurance coverage for dependents of employees. (*GERR 686: B-8, Charles City Community School District and AFSCME Local 1734,* Iowa PERB, Case No. 661, Oct. 1, 1976.)

► Continuation of joint committees to review texts and resource material. (*GERR 675: B-9, Washoe County Teachers Assn. v. Washoe County School District et al,* Nev. LGEMRB, Case No. A1-045297, Item 56, August 1976.)

► Snow day clauses. (*GERR 675: C-2; Tuscola Intermediate Education Assn., MEA/NEA, and Board of Education, Tuscola Intermediate School District,* AAA Case No. 54-39-0442-76, July 1, 1976.)

► Elimination of teachers' lounge. (*GERR 717:26, Board of Education of East Irondequoit Central School District and East Irondequoit Teachers Assn.*, PERB Case No. A76-205, March 14, 1977.)

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CONTRACT SETTLEMENTS

The following are accounts of 1976-77 contract settlements between teachers and school boards in six of the largest school systems in the country:

New York City—When UFT's agreement with the Board of Education expired in September 1975, teachers staged a five-day strike *(GERR 623:B-23)* that ended in ratification of a two-year agreement providing 90 minutes of extra teaching time, a 45-minute reduction in pupil's day twice weekly, a $300 cost-of-living pay raise, and class size rollback to previous contract levels *(GERR 624:B-15)*.

However, the Financial Control Board subsequently rejected the agreement, marking the start of periodic and frequently frustrating attempts by Board of Education and UFT negotiators to reach an acceptable agreement.

A breakthough resulted from two marathon negotiating sessions in mid-December mediated by First Deputy Major John E. Zucotti. The Board of Education approved the agreement at its December 17 meeting.

In the new agreement, the first year teachers get increments and differentials (which they have already received); the $300 COLA is paid retroactively to everyone working at least a year as of December 1, 1975; a Welfare Fund increase of $50 is paid, but the $750 and $1,500 longevity increments that would have been paid beginning October 1, 1976 are deferred for one year.

In the second year, step increments are deferred but educational differentials (for which teachers have expended thousands of dollars in graduate school education) are retained; the longevity increments go into effect as of October 1, 1976 to those not receiving longevity increments; and the original Welfare Fund additional contribution of $50 is continued while the new $50 per teacher payment is deferred.

The third year beginning next July 1 is essentially the same as the second year, except that a "new" COLA would be paid to all teachers on December 1, 1977, based on productivity savings or new revenues, as mandated by the Control Board. Step increments would be restored on Feb. 1, 1978 *(GERR 689:17)*.

Los Angeles—A 5 percent across-the-board pay raise for teachers, administrators and other credentialed employees plus expanded health and dental benefits are included in the one-year agreement between the Los Angeles Board of Education and the United Teachers of Los Angeles. The salary scale for teachers, in round figures, now will range from $10,000 to $20,000 annually. In other provisions, the school board agreed to absorb the $13 million increase in premiums for health and dental insurance, to raise teachers longevity pay from $500 to $700—a provision that affects some 40 percent of teachers—to raise the supplement for teachers with a M.A. degree from $100 to $150 and to add $75, for a total of $775 yearly, to the pay for teachers on after school assignments.

For the first time, substitute teachers working 100 days or more and adult education teachers working 12 hours per week will receive full health and welfare benefits. The one-year contract adds one more coach for each high school, 200 English teachers in secondary schools and makes the approximately 900 elementary teachers eligible for sabbatical leave. *(GERR 678:B-17)*.

Union Foregoes Early Pay Boost

Philadelphia—Philadelphia, Pennsylvania public schools opened last year as the result of the overwhelming ratification by the Philadelphia Federation of Teachers (PFT) of a last minute contract agreement reached after a tense all-night session. The PFT members voted 7,159 to 632 to accept a two-year contract that will increase their salaries by 15.2 percent in three steps. The accord averted a strike that was to begin on the first of two scheduled teacher preparation days.

The PFT made a major concession on the length of the contract. Union leaders had been seeking a three-year pact that would have expired shortly before the next mayoral election and have given the union bargaining leverage. Both the union and the school board said the PFT had given up an immediate salary raise in return for a higher total percentage increase in pay.

Under the agreement, the PFT's 14,000 teachers and 8,000 other school employees will not get a salary increase until February 1, when wages will go up 6 percent. At that time, fringe benefits, such as health and welfare funds, will increase 2 percent.

In addition, they received a 3 percent wage increase on September 1, 1977, and a 5.5 percent salary increase and a 2 percent fringe benefit increase on February 1, 1978. Because these increases build on each other, the compounded salary raise will be 15.2 percent by 1978. Starting salaries for teachers with a bachelor's degree, now at $8,900, will climb to $10,252 by 1978. Teachers who have fewer than 11 years of experience will continue to get automatic annual salary increments of several hundred dollars for each year of experience they acquire. For teachers who are at maximum experience—11 years—the new contract provides bonuses of 2 percent in February 1977 and 1978. The maximum salary for a teacher with a M.A. will rise from $19,432 to $23,236. Teachers will continue to have daily 45-minute preparation periods *(GERR 674:B-10)*.

Chicago—Some 27,000 public school teachers in Chicago, Illinois, represented by the Chicago Teachers Union Local, signed a contract for the 1976-1977 school year that retains the benefits in the 1975-1976 contract and leaves class size provisions and fringe benefits intact. In addition, all teachers will receive their salary increments on schedule. The new pact assures that there will be no cuts in full-time personnel or programs and that the schools will remain open for the full 39-week school year. Special education guidelines will be implemented this year as drawn up by a joint union-board committee. Robert Healey, president of Local 1, said, "our members' solidarity in the face of board-threatened cuts brought us victory. We stood together and we won."

The board had asked for cuts in the fringe benefit package which would have made the teachers pay an additional $15 million in insurance premiums, and threatened cuts in jobs and programs. The year before Chicago's schools had to be closed 16 days early *(GERR 661:B-20)*, which cost the teachers 8.5 percent of their pay, and forced a monetary penalty on the school system depriving it of state aid. The union called last year's assurance of a full school year a major victory *(GERR 677:B-12)*.

But No Limit on Class Size

St. Louis—Teachers in St. Louis, Missouri, voted to accept a new contract providing a $500 base salary increase and an average salary increase of $1,048. The vote, 618 to 465, went against the recommendation of the St. Louis Teachers Union

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executive board, which urged the teachers to reject the offer. Teachers' negotiators had been seeking a raise in base pay of $1,000-$1,500 and had tried unsuccessfully to get a limit on class size. They also wanted to gain pay on severance for unused sick leave and increased preparation time for elementary teachers. The pay increase brings base salary to $9,000.

The union, Local 420 of the American Federation of Teachers, represents 4,000 teachers and 1,000 other school employees. The system has about 82,300 pupils enrolled. *(GERR 675:B-16).*

Seattle—The first public school strike in Seattle, Washington's history ended when 3,000 teachers, teacher aides, and nurses, and office workers accepted a 16 percent across-the board wage increase. Schools reopened for some 62,000 students after a September walkout, primarily precipitated by the school district's layoff and recall procedures *(GERR 676:D-3).* Warren Henderson, chief negotiator of the Seattle Teachers Association, said that while the strike cost teachers and other employees two days' pay, the settlement resulted in $1.75 million in economic and fringe benefit gains.

The agreement was reached after a 40-hour state mediation session in Olympia, called by Governor Dan Evans and Dr. Frank B. Brouillet, state superintendent of public instruction. Based on seniority, the layoff and recall method in the new contract will be figured on four preference areas chosen by each teacher: his major or minor field of study, area of teaching, or area of specialty. The procedure eliminates the former district placement committee and can be done by computer. The process is to be completed by June 30 each year. A laid-off employee can refuse two rehire offers, but a third turn down puts him on the bottom of the seniority list. The policy also calls for preservation of the minority percentage in the school district's staff. Transfers will be on the same basis, with the added provision that any school with 30 percent or more minority enrollment must be insured staff trained or experienced personnel in dealing with minority students or the school district must pay to restrain staff.

Other gains include a modified agency shop, whereby all employees who were union members on July 1, 1976, will retain membership. Nonmembers as of that date will not be required to join the union, but all new employees must join or pay dues equivalent. In addition, all teachers laid off last spring will be rehired on or before December 1, and medical insurance payments will be increased. Aides and office personnel will be given a letter of employment before the end of the year for the next year's assignment, with appeal to binding arbitration if laid off *(GERR 687:B-15).*

Briefly Noted Settlements

Listed below are contract settlements involving teachers, principals, supervisors and nonteaching support staff in other major school districts in the United States for 1976-77:

► Montgomery County, Maryland—Teachers and nonteaching support staff were voted the same 4.2 percent cost of-living increase voted the county employees, but the school employees are represented and have a contract which called for 6 percent raise last year and 5 percent raises in each of the two following years *(GERR 709:21).*

► Springfield, Illinois—Terms for the second year, 1977-78, call for a $9,000 base salary and a $21,100 top salary, with an elimination of the alternative salary schedule on which all new teachers hired by the district have been placed since 1974 *(GERR 707:22).*

► Milwaukee, Wisconsin—The agreement calls for a 4 percent raise retroactive to January 1, 1977, with an additional 4.5 percent raise in 1978 and 5 percent in 1979. Starting pay under the expired contract was $9,047. The contract expires December 31, 1979 *(GERR 708:19).*

► Albany, New York—Some 630 teachers will receive an average 4 percent pay raise both last year and this in a contract approved by the Albany School Board. Starting salaries will increase to $10,489 yearly and the maximum pay will be $19,779 *(GERR 692:18).*

► Erie County, New York—Teachers will receive a 6.8 percent increase in salary and fringe benefits during the first year and an additional 7.5 percent raise in the second. The new pact raises the salary of the district's teachers with bachelor's degrees from an annual base of $9,150 and a top of $15,245 to $9,500 and $15,820. Teachers with master's degrees, depending on seniority, will make between $10,600 and $18,200—up from $10,250 and $17,510 *(GERR 687:B-22).*

► Louisville, Kentucky—Teachers accepted a three-year contract that pays increases of at least 6.8 percent in the first year and provides a wage reopener for the second two years. The new contract also has semi-binding arbitration, under which an arbitrator's award will be binding unless it is rejected by 80 percent of the school board within ten days *(GERR 688:B-16).*

► Dade County, Florida—Average pay for the 1,072 principals, assistant principals, supervisors and technical personnel amounts to about $20,600, with pay increases ranging from $150 to $1,400 on an annual basis. The school board also agreed to allow all principals to work a 12-month year, rather than the 10 months many now work. That will mean an additional two-month pay raise for about half of the 250 principals *(GERR 686:B-14).*

► Harrisburg, Pennsylvania—The annual starting salary climbed from $8,100 to $8,800 the first term and to $9,525 for the second term. Also, the bonus for each 10 credits earned beyond a bachelor's degree advanced from $135 to $150 for 1976-77 and from $150 to $165 for 1977-78. The school district agreed to provide Blue Cross/Blue Shield medical insurance with a $10,000 coverage "as soon as possible" *(GERR 683:B-17).*

► Washington, D.C.—No pay increases were stipulated in a new contract. Teachers wanting to leave the building during "planning sessions" must give the principal a two-hour notice. The pact also continues the work year of 186 days, while the number in surrounding area school systems varies from 190 to 192 per year *(GERR 681:B-24).*

► Providence, Rhode Island—The contract gives teacher aides a 35 cent per hour pay raise in each of three years taking effect on September 1, 1976, a new dental plan, and an upgrade in medical coverage and pension benefits. The contract calls for an additional 24 cents an hour to the pension fund to enable eligible employees of 10 years service and retirement age a $200 monthly pension beyond their city pensions, to take effect after the start of the contract. Union members will be allowed to contribute five cents an hour from their wages to start a legal aid service *(GERR 681:B-25).*

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In his State of the Union address at AFT's annual convention, Shanker said that AFT had anticipated enrollment declines, school closings, more unemployment, racial conflict, and financial constrictions, and that the union was able to deal with these changes. It made a "major effort to shift emphasis away from an exclusive concern with collective bargaining to a shared concern" for those developments, he commented.

Shanker listed a number of key issues before the 1977 convention that carried a "unifying theme." The first priority, he said, was labor law reform which while it affects the private sector would benefit the AFT by strengthening the union movement as a whole.

Tenure and Seniority

During the last ten years perhaps no labor relations issue has caused greater concern and interest among classroom teachers than tenure—the guarantee that after a certain amount of work experience a teacher will be dismissed only for "just cause." "Just cause" is usually interpreted so narrowly that only the most egregious offenses result in the firing of teachers.

However, teachers have become acutely aware of the vulnerable position in which they often find themselves—an increasing number of teachers seek to occupy a dwindling number of positions. Some states have tenure laws that mandate the experience necessary for job security. In those states without tenure laws, contract negotiations affecting tenure policy are often hotly debated.

"Contractual" tenure has some advantages over "statutory" tenure. The former usually assures speedier and sometimes more effective process guarantees, including an impartial decision-maker. Under contractual tenure, the question of "just cause" is referrable to grievance machinery that often includes binding arbitration.

In both situations—state tenure laws and contractual job security provisions—legal decisions affecting tenure have acquired great added significance in the last decade.

Can School Boards Relinquish Tenure Authority

In the most important legal development involving tenure policy in 1976-77, two state courts reached opposite conclusions on whether schools can relinquish their authority to make tenure determinations, despite an agreement to do so in a collective bargaining contract.

The New York Court of Appeals stated that a school board cannot surrender its authority to terminate the employment of a nontenured teacher at the end of the probationary period. "Any provision of a collective bargaining agreement which would have that effect is accordingly unenforceable as against public policy," the court said. *(GERR 700:12, Cohoes City School District v. Cohoes Teachers Association;* NY CtApp No. 503, December 2, 1976.;

However, the Oregon Court of Appeals ruled that once a school board agrees and includes teacher renewal provisions in its contract, it is obligated to abide by the terms of the negotiated agreement.

It was the school board's position that it could bargain over the process by which teacher renewal decisions are made, but that it arbitrate disputes over whether the agreed process is being followed because under the state law the ultimate responsibility for nonrenewal rests with the board.

While the school board "had no duty to bargain over matters relating to the process by which teacher-renewal decisions would be made, nor was it required to agree to arbitrate such matters," the court concluded that once it has "chosen to do so, it must now abide by the agreement entered into." (*GERR 689:19, Central Point School District No. 6 v. Employment Relations Board;* Oregon Court of Appeals, No. 535, Nov. 8, 1976.)

Non-tenured Teachers

In another major tenure decision, the New York Court of Appeals upheld the decision of school district not to grant tenure to teachers who were still on probation—as provided under the Taylor Law *(RF51:4111)*—because of an illegal strike. The district had the right to decide *before* the year of probation was up that it would not grant tenure, the court said. (*GERR 700:12, Linnie B. Tuller, et al* v. *Central School District #1 of the Towns of Conklin and Broome County, et al;* NY CtApp No. 358, July 13, 1976.) Therefore, non-tenured teachers in New York State who engage in an illegal strike now run the risk of being denied tenure before their year of probation has expired.

However, while state law does not provide for the discharge of tenured employees, it does not bar arbitration of discharges on non-tenured workers, the Massachusetts Supreme Judicial Court ruled. The court held that an arbitration award ordering the reinstatement of non-tenured county employees did not constitute an excessive exercise of arbitral authority. (*GERR 714:15, Commissioners of Middlesex County v. AFSCME Local 414;* Mass. Sup. Jud. Ct., Middlesex, April 7, 1977-April 29, 1977.)

Several decisions in 1975-76 may result in teacher unions becoming more concerned with negotiating tenure and seniority provisions for education positions neglected in previous contract talks.

An arbitrator in Buffalo, New York ruled that the school board did not violate a collective bargaining agreement when it failed to retain an adult education teacher through the end of the adult education program. "In the absence of an applicable contractual provision or otherwise binding practice, it is an inherent reserved right of management to deploy its personnel as it sees fit," the arbitrator ruled (*GERR 700:26, Buffalo Board of Education and Buffalo Teachers Feder.*; PERB Case No. A-76-111, Jan., 19, 1977.)

Counselors who lost jobs during the 1975-76 budget crunch were legitimately refused tenure, the New York Court of Appeals ruled, agreeing with the school board that prior experience as an elementary school teacher should not be taken into account in determining the seniority of personnel who had since become elementary school guidance counselors (*GERR 700:13, Phyllis Gerstein et al. v. Board of Education of New York:* NY CtApp Nos. 382, 364, 383, 384, July 6, 1976.)

Finally, as to standards for "just cause," arbitrator Herman Rauch, in holding that a school board had "reasonable and just cause" for terminating a math teacher, stated: "An educational deficiency in a teacher may take some time to correct. That is not true, however, of deficiencies in the matter of class discipline, and the correction of deficiencies in the presentation of subject matter, which is well know. Tenure is not intended and does not protect a teacher against failure to provide and maintain the quality of instruction which a school board may expect from its teachers." *(GERR 713:23, Oshkosh Area Public Schools and Oshkosh Educational Assn.*, AAA Case No. 51-39-0219-76, Feb. 17, 1977.)

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The issue of retirement for teachers was the same in 1976-77 as it has been since the mind of a teacher runneth not to the contrary—to obtain "carryover legislation" allowing vesting of retirement credit for those teachers who transfer to a school system in another state.

Seniority and Equal Employment Opportunity

The Supreme Court has been wrestling with apparent conflicts between the concepts of seniority and equal employment opportunity. Last year, this issue produced several important decisions in the education field.

In *Chance v. Board of Examiners,* the U.S. Supreme Court refused to review a Second Circuit ruling approving the grant of constructive seniority to a class of black and Puerto Rican school teachers employed by the New York City Board of Education. The Second Circuit had ruled that constructive seniority was appropriate for otherwise qualified minority supervisors who were kept from their "rightful place" on the seniority list by their inability to pass a discriminatory examination. (*GERR 714:12, Council of Supervisors and Administrators of New York City, Local 1 v. Chance;* No. 76-344.)

In another case, the U.S. Court of Appeals for the Third Circuit approved the grant of retroactive seniority to a blind teacher who was unlawfully denied employment by the Philadelphia school system. The school district had argued that the implementation of the order might require that some other teacher be "bumped." (*GERR 708:12, Gurmankin v. Costanzo, et al;* CA 3, Nos 76-1730, 76-2297, and 77-1273, April 25, 1977.)

Arbitrators and "Leave" Issues

Perhaps the issue of leave time has traditionally been viewed with calculated concern by both teachers and school boards because of their sensitivity to the needs of both teachers and students. School boards desire teacher continuity in classroom instruction; teachers understand and respect this principle, but argue that like other employees and perhaps more so at times, they are entitled to be paid for legitimate respites from their rigorous workplace—the classroom.

In any case, arbitrators were, as usual, called upon to decide many issues involving personal, sick, sabbatical, and emergency leave. Here is a representative sampling of decisions by education arbitrators, commissioners, and school officials.

► Employees who have illnesses in the family can not make an initial election to take sick leave and then at the end of the school year ask that the employer change the records to reflect that it was really emergency leave to the extent that they had not exhausted their right to take emergency leave (*GERR 679:3, Mukwonago Joint School District No. 10 and Mukwonago Education Assn.,* July 22, 1976.)

► When personal leave is to be automatically granted and constitutes business that can not be handled at any other time other than schedule work time, it is permissible for a teacher to accompany her husband to a business convention and receive personal leave (*GERR 704:25, New Richmond Board of Education and New Richmond Education Assn.,* AAA Case, January 18, 1977.)

► A teacher whose student tour group was delayed on her return flight from Europe and who missed class is not entitled to a personal emergency day under the terms of the collective bargaining agreement. (*GERR 700:25, Bay Shore Union Free School District and Bay Shore Classroom Teachers Assn.,* AAA Case No. 1139-11376, Nov. 26, 1976).

► Participating in a political primary does qualify as a routine personal matter under terms of the contract that provides for four personal leave days a year without pay (*GERR 699:18*).

► The principal of a high school acted properly in insisting that a Catholic instructor take a day of personal leave on December 8—the Feast of the Immaculate Conception—instead of granting him a full day off for religious observance. (*GERR 720:19, Denver Classroom Teachers Association and School district 1 of Denver;* AAA Case No. 71 39-0077-77, Arb. Solm. Yarowsky, June 15, 1977).

► A teacher in Norton, Massachusetts, who was docked two days pay for attending President Carter's inauguration without a leave of absence, was told by school officials that he will not be fired *(GERR 694:17).*

► Teachers on sabbatical leave are entitled to the current year's salary, not the salary before they went on sabbatical, according to arbitrator Joseph L. Bard. *(GERR 717:35; Independent School District No. 196 and Rosemount Education Assn.,* PERB Case No. 77-PP-16-B, March 10, 1977.)

► When language in a contract is general, personal leave is not restricted to those strict legal reasons given as legitimate by a school district, ruled arbitrator Rodney E. Dennis. *(GERR 713:22; Shenendehowa Teachers Assn. and Shenendehowa Central School,* AAA Case No. 15-39-0603-76, Feb. 14, 1977.)

► Buffalo public school teachers were not entitled to be paid for working on holidays, due to days lost to bad weather, ruled arbitrator John F. Hans *(GERR 715:20).*

► "Emergency" leave does not cover a teacher's decision to accompany her husband and college-age child to school for registration and orientation procedures and for the commencement of the collegiate school year, ruled aribtrator Richard Siegel. *(GERR 713:23; Wadsworth Education Assn. and Wadsworth City Board of Education,* AAA Case No. 53-39-0279-76, Feb. 14, 1977.)

Maternity Leave

In its *Gilbert* decision, the Supreme Court held that disability plans not offering pregnancy benefits do not, of themselves, discriminate against women in violation of Title VII of the Civil Rights Act of 1964.

The Senate has recently voted to require employers to include pregnancy benefits in any workers' disability plans they offer.

In 1976-77 there were several cases and arbitration that involved the issues of whether pregnant women were entitled to sick leave benefit or required to take maternity leave and whether a school board could refuse to renew a pregnant teacher's contract.

► A local school board policy requiring pregnant teachers to take maternity leave 30 days prior to delivery and denying them use of accumulated sick leave for periods of normal illness during pregnancy was ruled unconstitutional by the U.S. District Court for the Northern District of Ohio.

The court found that the sick leave and maternity leave policies adopted by the Sylvania Board of Education not only denied due process but also ran contrary to the provisions of state statutes. *(GERR 697:14; Sylvania Education Association v. Sylvania Board of Education;* USDC N. Ohio; W. Div., Civil Case No. C74-517, December 21, 1976.)

► The period of time off for childbirth is not compensable sick leave but the period of time caused by the complication is compensable and should be covered by the sick leave plan, arbitrator George Jacob ruled. *(GERR 696:21, Independent School District No. 704 and Proctor Education Association,* PERB Case No. 76-PP-62-B, October 18, 1976.)

► A school district violated contract terms when it denied employees the right to utilize accumulated sick leave benefits for pregnancy-related medical disabilities, arbitrator Byron Yaffer ruled. The district was ordered to stop disallowing em-

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ployees the right to utilize accumulated sick leave benefits where such employee can prove by doctor's certificate that they are unable to perform their work because of pregnancy-related disability. *(GERR 717:27, West Allis-West Milwaukee Joint City School District No. 1 and West Allis-West Milwaukee Education Assn.,* March 23, 1977.)

► A school board's refusal to renew a teacher's yearly contract after being informed of her pregnancy did not violate Title VII of the Fourteenth Amendment, the U.S. District Court for South Carolina ruled. Reversing an earlier order, the court found that the school board acted pursuant to an unwritten policy applicable to both sexes of refusing to rehire or renew a teacher's contract where there will be a foreseeable period of absence. *(GERR 722:19, Mitchell v. Board of Trustees of Pickens County School District, et al.;* USDC SC, No. 75-143; July 27, 1977.)

Teachers and Constitutional Rights

Government employees are often aware that performance of their duties sometimes results in curtailment of some First Amendment and other constitutional rights. Teachers, like other government employees, have often turned to the courts to protest those rights. In 1976-77, when labor relation issues were involved, teachers gained some significant victories but suffered other important losses on this issue.

A state may not prohibit a public school teacher from speaking on collective bargaining matters at a school board meeting open to the public, "inasmuch as such speech does not constitute negotiations that would undermine the exclusive rights of a majority union," the U.S. Supreme Court ruled in a unanimous decision. Concurring Justice Brennan concluded: ". . . . The state (Wisconsin) could no more prevent (the teacher) from speaking at this public forum than it could prevent him from publishing the same views in a newspaper or proclaiming them for a soapbox." *(GERR 687:B-12, City of Madison Joint School District No. 8, et al v. Wisc. Empl. Rel. Comm. et al;* US SupCt, No. 75-946, Dec. 8, 1976.)

Two Kansas teachers who were fired without a pretermination hearing in violation of their Constitutional rights are entitled to redress, the U.S. Court of Appeals for the Tenth Circuit ruled. The school district informed the teachers that they were being let go for budgetary reasons. The teachers insisted that their contracts were not being renewed because of their involvement in "rather heated bargaining negotiations." They took their case to court, claiming violations of their Fourteenth Amendment right to due process and their First Amendment right to free speech. *(GERR 705:17, Unified School District No. 480, Kansas v. Epperson and Peters;* USCA 10, No. 75-1948, March 18, 1977.)

Expungement of unneeded personnel records is mandated for the federal government employees by the Privacy Act of 1974. Congress is currently discussing extending the Act to state and local governments. In an arbitration decision involving expungement of a teacher's personnel record, umpire Richard H. Siegel ordered that after deleting and removing certain written material from a grievant's personnel records and file, the local board of education would immediately destroy all known copies. *(GERR 688:C-5, Board of Education of Port Clinton City School District and Port Clinton Federation of Teachers* (AAA Case No. 53-30-0126-76, Sept. 17, 1976)).

A Connecticut teacher won a major round in his court fight against a school board regulation requiring him to wear a tie and jacket in class. In a 2-to-1 decision, the U.S. Court of Appeals for the Second Circuit reversed a ruling by District Judge T. Emmet Clarie, who had dismissed the teacher's constitutional challenge to the dress regulation *(GERR 639:B-14).*

Richard P. Brimley, who teaches English and film-making at Penney High School in East Hartford, contended that a "tieless teacher" could establish greater rapport with students and teach more effectively. In order to show that he is "not tied to Establishment conformity," Brimley wants to wear a turtleneck sweater or open-collar sport shirts.

Ruling that the Federal District Court in Connecticut should give Brimley a hearing on the merits of his case, Judge Hames L. Oakes said the teacher had put forth a "reasonable proposition, which we must accept at this stage, that being tieless helps him to maintain his students' respect. . . . Appellant's attempt to express himself on this level is, we hold, an interest entitled to First Amendment protection." *(GERR 698:22).*

A teacher dismissed without being given a hearing was reinstated by Vermont Superior Court Judge Hilton H. Dyer, Jr. The decision was considered a landmark ruling in Vermont because it affirmed the strength of the arbitration clauses in teacher's union contracts, along with a teacher's right to a hearing prior to dismissal. *(GERR 681:B-23)*

Not All Victories

Not all legal decisions in this area resulted in victories for teachers.

For example, the New York State Court of Appeals ruled that a school board has the right to inspect teacher personnel files, even though it may have negotiated away its right to do so. Statute and public policy support the board's authority to review such materials, the court declared, "although improper roving in personnel files should not be countenanced. . ." *(GERR 705:15; Great Neck Board of Educators v. Zita J. Areman, president, Great Neck Teachers Association;* N.Y. Ct. App., No. 115, April 5, 1977.)

In addition, a nontenured teacher's exercise of protected First Amendment rights does not necessarily insulate him from discharge, the U.S. Supreme Court held, if the board's decision not to rehire him would have occurred in any event on the basis of his performance record. The unanimous Court remanded a suit filed by Fred Doyle, an Ohio school teacher who was fired by the Mt. Healthy School Board after he telephoned a local radio station to reveal the contents of a school board memorandum regulating dress teacher and appearance. *(GERR 691:10, Mt. Healthy City School District Board of Education v. Fred Doyle,* US SupCt, No. 75-1278, January 11, 1977.) The Court instructed the lower court to determine whether Mr. Doyle would have been fired notwithstanding his revelations to the radio station.

An admission of homosexuality by a high school teacher connotes illegal as well as immoral acts that justify the school board's decision to discharge him, the Supreme Court for the State of Washington ruled. The court found that after the teacher's homosexual status became publicly known, it would and did impair his teaching efficiency. *(GERR 695:12, Gaylord v. Tacoma School District No. 10, et al,* Wash. Sup.Ct, Cast No. 44678, January 20, 1977.) The Supreme Court declined to review the case in October 1977, thus letting stand the Washington State Court ruling.

The U.S. District Court of Colorado ruled that a school district has the authority to ban certain books from high school reading lists because its teachers' association bargained away the right to choose classroom material. The court decided that the teachers traded off some First Amendment rights—and some academic freedom—for the security of a collective bargaining agreement negotiated by the Aurora Education Association *(GERR 701:12, Bob Cary, et al v. Board of Education of the Adams-Arapahoe School District 28-J,* Aurora, et al; USCDC, Colo., Docket No. 76 M 200, March 3, 1977).

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Finally, the Supreme Court refused to review the claim of a New Jersey transexual, Paula Grossman, formerly Paul Grossman, that her civil rights were violated when she was fired from her teaching job after undergoing a sex-change operation. The teacher was fired after 14 years as an elementary music teacher. The school board said her new sex presented the potential for psychological harm to her students. *(GERR 680:B-19)*

Class Assignments

Despite the increased complexity of teaching, teachers have made very slow progress in improving class size, NEA executive director Terry Herndon has asserted. According to Herndon, nearly one-fourth of all elementary classes contain 30 or more children, and nearly one-third of secondary teachers still deal with 150 or more students each day.

Issues such as workload, class assignments, and class size, often negotiated into collective bargaining contracts, frequently wind up being decided by arbitrators.

However, where workload is not one of the enumerated subjects for negotiation, an employer can refuse to bargain with a union on the issue, the California Employee Relations Commission ruled. *(GERR 723:25, Fullerton Union High School District Personnel and Guidance Association and Fullerton Union High School District,* Case No. LA-CE-28, April 14, 1977.)

On the other hand, when the Galloway Township (N.J.) Board of Education unilaterally, without prior negotiations with the Education Association, lengthened the work day for teachers, it engaged in an improper labor practice, according to the New Jersey Public Employment Relations Commission *(GERR 685:C-3, Galloway Township Board of Education and Galloway Township Education Association,* Docket No. CO-76-169-62, July 19, 1976.)

Arbitration Decisions

Listed below are arbitration rulings on these issues decided in 1976-77:

A school district violated contract terms when it assigned home economics teacher five preparation periods for spring semester without her consent. Arbitrator Rodney E. Dennis did not order that the teacher be paid an additional stipend, however, because he "is not persuaded that (the teacher) was sufficiently damaged to warrant such a claim." Dennis directed the school district to apply the following contractual requirements to all high school and junior high school teachers: ". . . A written statement of reason must accompany the assignment of four (4) preparations, no more than four (4) preparations shall be assigned except by mutual consent of the teacher and teachers who are assigned more than three (3) preparations will be relieved of specific duties." *(GERR 700:26, Mohonasen Central School and Mohonasen Teachers Assn.,* PERB Case No. A76-53, Dec. 1, 1976.)

In another arbitration involving the Monohasen Central School District, arbitrator Sumner Shapiro ruled that the district did not violate the provisions . . . of its agreement with the Association when it altered the student contact hours of kindergarten through fifth grade teachers without prior negotiation. However, Shapiro said, the district was and continues to be contractually obligated to enter into negotiations about the change upon demand by the MTA. *(GERR 679:C-3, Mohonasen Teachers Assn. and Mohanasen Central School District,* PERB Case No. A75-214, July 22, 1976.)

A school board did not violate contract language by not giving a teacher opportunity to state her "assignment preference" for 1975-76 school year, arbitrator Jack Stieber ruled. *(GERR 704:24, Comstock Public Schools, Kalamazoo, and Comstock Education Assn.,* AAA Case No. 54-39-1216-75, Jan. 18, 1977.)

The unilateral action by a school board in combining second and third grade students into a single class, without first submitting the plan to a professional advisory committee violated a collective bargaining agreement, arbitrator Lawrence I. Hammer ruled. *(GERR 679:C-2, Teachers Assn. of Lindenhurst and Lindenhurst Board of Education,* AAA Case No. 1339-0470-76, July 8, 1976.)

In a separate decision, arbitrator Hammer ruled that the reduction in the number of guidance counselors at Dwight Morrow High School for 1975-76 did not violate the terms of the collective bargaining contract.

Hammer said that the resultant increase in workload for remaining counselors did not constitute violation of the contract, but that any further change in counselors' workload could conceivably result in a change in the terms and conditions of employment. *(GERR 679:C-2,* Englewood Teachers Assn. and Englewood Board of Education, AAA Case No. 1839-0107-76-D, June 1, 1976.)

Arbitrator Thomas T. Roberts found that involuntary transfer of physical education teacher was not a violation of a master agreement. Roberts said: ". . . . (The contract) established not only seniority as the test but also the effect upon the program of the school from which the teacher is to be transferred and the problem of staff reassignments." *(GERR 675:C-1), Board of Education School District No. 11, Colorado Springs, and Colorado Springs Teachers Assn.,* AAA Case No. 71-39-0178-75, July 15, 1976.)

Dues Checkoff

Dues checkoff is vital to any union—and teacher unions are no exception.

A state cannot constitutionally compel public employees to contribute to union political activities that they oppose, the Supreme Court held last May. However, the Court upheld the constitutionality of agency fee agreements covering public employees, subject to a rebate for that portion of the fee or dues spent on activities unrelated to collective bargaining.

Following the Detroit Federation of Teachers' 1967 election as bargaining representative for teachers employed by the Detroit Board of Education, the union and the board negotiated a collective bargaining agreement which included a requirement that every teacher who had not become a member within 60 days of hire or within 60 days of January 26, 1970 effective date of the clause, pay the union a service charge equal to the regular dues required of union members.

The court suggested that the Detroit teachers who originally filed the suit in 1969 should try for an out-of-court settlement in view of the fact that the Detroit Federation of Teachers had adopted an internal remedy for those who object to the use of their dues for ideological purposes. *(GERR 710:11; D. Louis Abood et al v. Detroit Board of Education et al;* U.S. Sup. CT, No. 75-1153, May 23, 1977.)

In 1976-77 there are several other significant rulings by attorneys, general employment relations boards and courts on this issue.

► In a state where there is no law authorizing public sector negotiations but bargaining does occur, a contract between the Maple Heights Teachers Association (MHTA) that recognizes MHTA as the teachers' exclusive bargaining agent does not preclude dues checkoff for those teachers who belong to the rival, minority Maple Heights Federation of Teachers, an Ohio common pleas court held. *(GERR 699:8 Maple Heights Teachers Association Federation of Teachers;* Cuyahoga

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County Common Pleas Court, Case No. 76-961, 306, October 15, 1976).

► Teachers who join a local teachers' association can be required to also join and pay dues to its state and national affiliates, according to the California Attorney General's office. *(GERR 673:B-13,* California Attorney General's opinion; No. CV 75 293, August 18, 1976.)

► School districts may pay teachers' dues to such groups as the National Education Association, American Federation of Teachers, the Classroom Teachers Association, or other groups, concluded a New Mexico attorney general's opinion. *(GERR 676:B-18).*

Amendments to New York's Taylor Law will require all state employees who are not members of the unions representing them to pay a service fee, equivalent to dues, for services connected with the bargaining and administering agreements. The provisions will be applied only where an employee organization has an established mechanism for reimbursement of a *pro rata* portion of the fee that represents organizational support of activities and causes only incidentally related to the terms and conditions of employment. In addition, the Board of Education and New York City's municipal unions are putting the finishing touches on an agreement under which all of one board's employees covered by union contracts, including those who are not union members will have to pay the equivalent of dues. But the provision in the law that mandates revocation of the dues checkoff privilege for unions violating the law by striking may be unconstitutional because it is discriminatory, a federal district court ruled.

Dues Revocation Blocked

United States District Judge Marvin E. Frankel of the Southern District of New York thus granted a preliminary injunction to the Buffalo Teachers Federation, Inc., blocking revocation of the union's dues check off by the New York State Public Employment Relations Board (PERB).

PERB ordered the union's dues checkoff revoked pursuant to Section 210.3(f) of the Taylor Law, after the Buffalo teacher's union was found in contempt of court for having struck in September 1976 in defiance of temporary restraining order and injunction issued by a state supreme court *(GERR 695:16).* New York's Taylor Law *(RF 51:4111)* provides that in cases such as Buffalo's, PERB must revoke the union's dues checkoff privilege.

However, the Taylor Law provides for establishment by local jurisdictions of local labor laws and labor relations boards—and if the local laws are "substantially equivalent" to the Taylor Law, the localities are "exempted from a number of general requirements and provisions," according to the district court. One of the exemptions is the provision for revocation by PERB of the striking union's dues checkoff privilege. Under the "mini-PERBs," revocation is left in the first instance to the state courts, and is not mandatory. *(GERR 722:17, Buffalo Teachers Federation, Inc. against Robert D. Helsby, Joseph R. Crowley and Ida Klaus, as members of the New York State Public Employment Relations Board;* USDC S.N.Y., Civ. 4875, July 29, 1977.)

► Oregon's Employment Relations Board ruled that retroactive ratification of a "fair share" provision of a teacher's union contract is valid and that the school district's withholding fair share payments from the union was an unfair labor practice.

The Oregon City Education Association had negotiated a contract for 1975-1977 providing that an amount equal to union dues be deducted from the pay of non-members of the teachers union and paid to the union, to defray costs of representation of non-members. *(GERR 688:B-1, Oregon City Education Association v. Oregon City School District No. 62;* Ore. Employment Relations Board Case No. C-26-76, August 5, 1976.)

► On the other hand, declaring that there is "no real difference" between agency shop and fair share, the Florida District Court of Appeals denied a request by the Florida Education Association/United that the Public Employees Relations Commission adopt a rule requiring employees represented by but not belonging to a union to contribute a pro rata amount of union dues to the organization for the cost of negotiations and grievance administration.

Union dues checkoff by any other name still is union dues checkoff that cannot be forced on nonunion members, the court said, since such fee checkoff would violate the right to work provisions of the state constitution by requiring an employee to purchase the right to hold a job. *(GERR 698:13, Florida Education Association/United v. Public Employees Relations Commission;* District Court of Appeal First District, Case No. BB-246, January 25, 1977.)

Evaluations

The issue of evaluation of teachers involves both the method and frequency of evaluations. Generally, teachers prefer to be evaluated at least as many times as is their due under school board policy.

In one case, an arbitrator ruled that a probationary teacher who was not recommended for tenure and who did not receive the proper number of evaluations in 1975-1976 be reappointed as a probationary teacher for 1976-1977. *(GERR 679: C-3, Schalmont Central School District and Schalmont non-Instructional Employees Assn,* PERB case No. A 76-35, August 3, 1976.)

However, in states such as Pennsylvania, evaluation is a personal statutory right and does not "fall under the purview" of particular collective bargaining agreement. The Pennsylvania Labor Relations Board dismissed the complaint of a teacher against an education association because such complaints are "handled under statutory law and not in contract." *(GERR 718:26, Pennsylvania Labor Relations Board v. Hershey Education Association and Affiliates,* PSEA, NEA, Case No. PERA-C-9113-C, May 19, 1977.)

Finally, Oregon Attorney General Lee Johnson said that while employees may be represented by an exclusive representative in negotiations and during grievances, this representation does not extend to teacher conferences. *(GERR 700: 171 Oregon Attorney General Rulings; Nos. 7380, 7376, 7380, 7381 Dec. 29, 1976.)*

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DEVELOPMENTS IN THE LAW

Last year several legal developments with direct and indirect labor relations significance surfaced to keep lawyers and representatives of school districts and teacher unions busy.

The most important legal decision in 1976 was the Supreme Court's ruling in *National League of Cities v. Usery (GERR 663:AA-1, E-1).* The effects of the *League of Cities* decision lingered on in the 1976-77 academic year.

In *League of Cities,* the Court held that amendments to the Fair Labor Standards Act extending minimum wage and overtime requirements to the states amounted to an unconstitutional intrusion on states' rights. However, according to the U.S. Court of Appeals for the Fourth Circuit, the provisions of the Equal Pay Act do apply to state and local governments, despite the ruling in *League of Cities.*

The Equal Pay Act, enacted in 1963 as an amendment to the Fair Labor Standards Act (FLSA) prohibits sex-based wage differentials.

League of Cities—Postscript

In February 1976 the Secretary of Labor filed an action against the Charleston County (S.C.) school district, alleging that the district was violating the equal pay, minimum wage, overtime, and recordkeeping provisions of the FLSA.

After the *League of Cities* decision, the school district moved for dismissal of the Department's action on the ground that *League of Cities* precluded application of the FLSA to state and local employees. The U.S. District Court for South Carolina dismissed only the minimum wage and overtime portions of the suit, and the school district appealed to the Fourth Circuit. *(GERR 722:13, Usery v. Charles County School District,* et al.; USCA 4, No. 76-2340, July 25, 1977.)

Among other applications of the *League of Cities* ruling are a decision by the U.S. District Court for Northern Texas that the Dallas school board cannot use that decision to avoid compliance with the Equal Pay Act, an informal view by the Attorney General of New York that court employees in New York City are covered only by the wage provisions of their collective bargaining agreement, and an opinion by the Attorney General of Iowa that overtime policy for state workers is a prerogative of the legislature *(GERR:689:20).*

Before *League of Cities,* most labor relations experts predicted passage of some type of federal public employee collective bargaining legislation. However, in 1977-1978, it appears highly improbable that Congress will seriously consider passage of such legislation. Nevertheless, in an address to the Federal Relations Network of the National School Boards Association, Rep. John N. Erlenborn (D-Ill.) warned:

"As a school board official, collective bargaining agreements can be dangerous to you. Will an agreement cover wages and fringe benefits alone? Or will it include hours, or course content, or class size, for example? At what point would such bargaining infringe on your legislative province? When are school boards no longer free to exercise their authority vested by law?" *(GERR 697:13)*

In early 1977, NEA deputy executive director Robert Chanin proposed legislation that would place public employees under the National Labor Relations Act and retain NLRA's right-to-strike language but would add a proviso that would permit a state to prohibit or limit the right to strike by statute *(GERR 693:12).* Shanker criticized this proposal as a "setback" in the struggle for equal collective bargaining rights for public employees. Shanker was particularly critical of NEA's plan "to eliminate the binding arbitration option and make fact-finding with nonbinding recommendations the terminal step" *(GERR 699:15).*

Residency Requirements

Another issue—residency requirements—was also spawned by a Supreme Court decision. Last year the Supreme Court upheld the authority of cities to require public employees to live within city limits *(GERR:650:B-8, McCarthy v. Philadelphia Civil Service Commission.)*

However, Philadelphia Common Pleas Court Judge Edward J. Blake enjoined the Philadelphia school board from applying its school district residency rule retroactively, finding that although the board adopted the rule in 1972, it did not attempt to effectively enforce it until more than four years later—after the U.S. Supreme Court upheld the constitutionality of residency requirements for municipal employees. *(GERR 687:B-16, Philadelphia Federation of Teachers v. Philadelphia School District Board of Education;* Philadelphia Common Pleas Court, Oct. 4, 1976.)

Under a New York City proposal, future teachers who are nonresidents would be required to move into the city within six months after passage of the rule and professional employees seeking administrative positions would have to become residents within three years of their appointment to those jobs *(GERR:696:9).*

Buffalo and Syracuse already require residency of teachers, and the latter also requires civil service workers to live within city limits *(GERR 696:10).*

Teachers in Columbus, Ohio, are being encouraged, but not required, to live in the city. The school board adopted a resolution that would not make residency mandatory, because a residency requirement proposed earlier had caused "a great deal of consternation among teachers," board member Virginia Prentice said *(GERR 687:B-18).*

The Boston School Committee adopted a rule requiring that new hires and executive promotion candidates either be Boston residents or agree to move into the city within six months. The school department hires and estimated 1,000 employees each year. The Boston Teachers Union contended that the regulation could not be applied to employees already in the bargaining unit, since the rule would then constitute a unilateral change in a condition of employment and would be a violation of the bargaining agreement. The school committee's May 1976 rule was struck down by the State's Labor Relations Commission.

Ruling on an issue that parallels teacher residency, the Supreme Court decided that it should not have agreed to review a case raising the question of whether a public school board may lawfully fire teachers because they did not send their children to public schools, but instead enrolled them in a segregated, all-white private school.

The effect of the Supreme Court's action is to sustain a ruling by the U.S. Court of Appeals for the Fifth Circuit upholding the validity of the terminations. The Fifth Circuit had affirmed a district court decision that found that the board's policy was an "appropriate measure" to eliminate racial discrimination "root and branch" from the public school system in Calhoun County. *(GERR 687:B-12, Cook, et al. v. Hudson, et al.;* US SupCt, No. 75-503.)

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Strikes and the Courts

There were several significant court decisions involving the issue of teacher strikes. The question of whether a school district can seek monetary damages for a teachers strike was discussed in two court decisions in 1976-1977, with differing conclusions. The Michigan Supreme Court ruled that a school district may not maintain a tort action seeking monetary damages for a teachers' strike that was conducted in violation of the state's Public Employment Relations Act. The state law *(RF51:3111)* has exclusive jurisdiction over public employment labor relations, the court asserted, finding no precedent in traditional Michigan common law that would allow school district to sue for damages.

The court also rejected the "specious" argument of the Lamphere Schools that the labor relations statute penalizes only the individual striking public employees, and not their labor organizations. The discharge-discipline provision of the act "clearly anticipates" the existence of public employee organizations, the court holds. Furthermore, the Michigan Employment Relations Commission has exclusive jurisdiction over determining unfair practices, and to allow the school district to pursue its civil tort actions would circumvent MERC's authority, the court held *(GERR 708:15, Lamphere Schools v. Lamphere Federation of Teachers, et al.;* Mich SupCt, No. 58159, May 2, 1977.)

However, a California appeals court upheld the Pasadena School District right to sue a teacher organization for damages allegedly incurred during a one-day work stoppage three years ago.

A three-justice panel of the Second District Court of Appeal ruled unanimously that the district had sufficient grounds to proceed with a $330,000 suit against the Pasadena Federation of Teachers and its president, Saul Glickman *(GERR 722:20).*

Strike Sanctions

While teachers unions may become increasingly involved with being hit with these tort actions, they have traditionally been more concerned with the impact of criminal sanctions brought against them for their use of the strike weapon. There were several court decisions in this area in 1976-1977:

► Rhode Island's Supreme Court upheld contempt finding and jail sentences imposed on Pawtucket teacher union leaders who had been found in contempt of court when they violated preliminary injunction of their 1975 strike.

The Supreme Court rejected the union's contention that the original contempt finding was faulty because the preliminary injunction had not specifically instructed the union leaders to take affirmative action to halt the strike. *(GERR 693:20, The School Committee of the City of Pawtucket and Pawtucket Teachers' Alliance Local No. 930 et al;* Rhode Island Supreme Court, No. 75-267—Appeal Nov. 9, 1976.)

► A State Supreme Court justice in Manhattan fined the United Federation of Teachers $50,000 and the Council of Supervisors and Administrators $7,500 for the illegal strike that virtually closed New York City's schools for five days in September 1975.

In addition, Justice Nathaniel T. Helman imposed fines of $250 each on Albert Shanker and Peter S. O'Brien, leaders of the teacher unions involved, but refrained from exercising his option to impose jail terms of up to 30 days for either man.

► A New Jersey court upheld on appeal the imposition of a $40,000 fine on the Hoboken Teachers Association for refusing to end a 1975 strike. The appellate division of the Superior Court found the $5,000 per day imposed by the law division of the court is reasonable.

In its decision, the court weighed the relative responsibilities of courts and Public Employment Relations Commission in dealing with strikes. Although the Employer-Employee Relations Act *(RF51:3911)* confers "exclusive power" to adjudicate unfair labor practices upon PERC—and although the Hoboken strike occurred because of the school board's refusal to bargain, an unfair practice under EERA—the court nevertheless finds that immediate relief from strikes by public employees, such as may be provided by courts, must be available in order to protect the public interest *(GERR 700:18, In the matter of Hoboken Teachers Assoc;* A-334-75, January 21, 1977; and *In the matter of the Board of Ed. for the School District of Hoboken;* A-673-75, Jan. 21, 1977.)

► Delaware teachers can be prosecuted for striking under the state's "abuse of public office" law even though they are public servants, not officials, the New Castle Superior Court held. The ruling stems from a 28-day strike by the 900-member Wilmington Federation of Teachers in 1975 *(GERR 628: B-18).*

Strikes are illegal under Delaware's bargaining law for public school employees *(RF51:1712),* and penalties include a two-year revocation of dues checkoff for the striking union representative. During the walkout, which was the longest teacher strike in the state's history, hundreds of teachers were arrested on criminal charges; fines of up to $45,000 were imposed on WFT and its leaders, and nearly 600 teachers and secretaries were fired but later rehired under contract settlement terms. (*GERR 676:B-2, State of Delaware v. Selma Barshay et al;* New Castle County Superior Court, Case No. 75-11-0295-A, Aug. 5, 1976.)

In a decision that cheered many teacher union leaders, the Circuit Court of Dane County (Madison and vicinity) ruled that since public employees in Wisconsin are not permitted to strike, they are entitled to unemployment compensation payments when their employer locks them out. (*GERR 719:15, Area Board of Vocational, Technical and Adult Education, et al, v. Wisconsin Department of Industry, Labor, and Human Relations et al.;* Wis. Circuit Ct. Dane County, Case No. 154-342, July 5, 1977.) The decision is believed to be the first to establish public employee's right to unemployment compensation in the event of a lockout.

Finally, participation in an illegal strike is not the sort of "personal reason" the Delaware Legislature had in mind when it passed a law permitting teachers to use one day sick leave each year for whatever purpose they deemed appropriate, according to a ruling by the state's Supreme Court. The high court overturned a ruling by the Delaware Superior Court authorizing the Marshallton-McKean School District to pay a teacher for the day he took off to join a statewide job action. (*GERR 709:12, Board of Education of the Marshallton-McKean School District v. Sinclair;* DelSupCt, No. 265, 1975, CA No. 54, 1974; April 20, 1977.)

School Districts and Equal Employment Opportunity

Whether a school district is subject to requirement of Title IX of the Education Amendments of 1972 was the issue decided by the U.S. District Court for Eastern Michigan. Title IX states that "no person" shall be subjected to discrimination under "any educational program or activity receiving financial assistance" on the basis of sex.

The court ruled that the Department of Health, Education, and Welfare (HEW) has no authority to stop federal aid to schools that discriminate against teachers on the basis of sex.

The case was believed to be the first successful challenge of the government's power to promulgate regulations against employment discrimination in federally funded education programs under Title IX.

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The decision could affect the disposition of over 500 complaints of sex basis in educational employment that HEW has received under Title IX. Most school districts in the United States receive federal aid and are therefore subject to Title IX. Agencies distributing the federal aid are authorized to cut off funds to a school system discriminating on the basis of sex (*GERR 706:10, Romeo Public Schools v. HEW;* USDC EMich, No. 6-71438, April 7, 1977.)

In an important ruling involving the proper use of statistics in a discrimination case, the U.S. Supreme Court overturned a decision by the U.S. Court of Appeals at St. Louis that a school district had engaged in a pattern or practice of discrimination.

The government had charged a school district in a suburb of St. Louis with discrimination because black teachers comprised less than two percent of the teaching staff.

The appeals court ruled that the government had proven its case by comparing the percentage of blacks in the teaching force of the district to the percentage of qualified black teachers in the relevant labor force.

Although the appeals court used the correct method in measuring the statistics, the Supreme Court stated it erred in substituting its own judgment for that of the trial court and by failing to consider statistics of post-1972 hiring practices that could rebut a *prima facie* case of discrimination. (*GERR 715:11, Hazelwood School District v. U.S.*, US SupCt, No. 76-255, June 27, 1977.)

New York City, as part of its attempted compliance with a federal directive to substantially increase the number of black and Hispanic teachers in the school system, assigned teachers to schools this fall on the basis of race, creating an enormous political controversy. Recently laid-off black and Hispanic teachers chose their assignments from one box, white teachers from another.

One important legal issue that was raised but left undecided this year involved the question of whether a school board is a "person" under the 1871 Civil Rights Act and therefore can be ordered to award damages to a teacher whose contract was not renewed.

In oral arguement, Philip Olinger, arguing on behalf of the Mt. Healthy, Ohio Board of Education, told the Supreme Court that it did not have jurisdiction over the action brought against the board by a dismissed teacher.

Justice Rehnquist found that the issue was raised belatedly in a reply brief with the Court, and that the question should not be decided by the Court. Due to the school board's failure to preserve the issue, the Court assumed that the trial court properly exercised jurisdiction over Doyle's suit.

Education for All Handicapped Children Act

Public Law 94-142, the Education for All Handicapped Children Act, is due to go into effect in October.

The Act requires that handicapped children be given a free public education, as often as possbile by "mainstreaming" them with normal children in regular classrooms. An estimated eight million handicapped children will be affected, a million of whom have never been educated at all. Though the legislation is effective this fall, schools will have until next September to develop the majority of their programs.

"The act has wonderful goals, which we fully support, but the money isn't there to do the job and do it right," NEA Official John Sullivan said. While the start-up costs of the program have been estimated at $4 billion to $5 billion, funds authorized by Congress total only $387 million for the current school year and $775 million for the 1978-79 year. The states or local school districts, most of them already suffering from a shortage of funds, have to make up the difference somehow.

Despite the NEA's position, many education observers believed that rank-and-file teachers would attempt to place provisions in their contracts limiting the responsibility for mainstreaming handicapped children.

Last year, this legal development had little or no apparent impact in teacher negotiations. However, in fall 1977, teachers struck in Hopkinton, R.I., demanding smaller classes to effectively teach handicapped children. The strike is the nation's first over the new federal law.

In addition, the AFT adopted a resolution on the Handicapped Act that asked for protection of a teacher's "due process rights" in this area.

The Education for All Handicapped Children Act is "double-edged" according to Shanker, because of its potential use in mainstreaming in order to lay off special education teachers and trim school outlays or to finance nonpublic schools. The federal government isn't paying the adjustments the law requires, he asserted *(GERR 723:11).*

Sunshine Laws

In several states, school boards and teachers found themselves subject to newly passed "Sunshine Acts." Sunshine laws require that certain administrative or rulemaking meetings be open and only permit meetings to be closed under special circumstances.

When the Williamson County (Tenn.) Board of Education held an "informal meeting" and decided not to take a position on teacher's pay it violated Tennessee's Sunshine Act, according to a recent ruling by the Tennessee Court of Appeals.

However, a second informal meeting at which the school board "merely listened as the teachers presented their side of the dispute" over salaries, was held in compliance with the Sunshine Act's provisions for open meetings, the appeals court said *(GERR 683:B-6, Williamson County Broadcasting Company v. Williamson County Board of Ed.;* Tenn. Appeals Court Middle Section at Nashville, September 3, 1976.)

School boards in Florida have grown accustomed to negotiating in a "fish bowl" atmosphere, according to a report by a state school board official on the effects of Florida's "sunshine law" on talks conducted under its collective bargaining statute *(RF51:1811).* Dr. Donald Magruder, executive director of the Florida School Boards Association, told a school boards group in Ohio—that has a sunshine law that doesn't apply to negotiations—that school board members and superintendents in Florida prefer the open sessions by about two to one, based on his own poll around the state. Magruder said the public bargaining—which in some large school districts has received full television coverage—tends to produce hard bargaining positions and lengthen negotiations. But open sessions also aid management because union proposals, including "typical boiler plate demands written in their national offices," show the public that "few if any of their demands refer to children or education," Magruder claimed. "It's all just teacher welfare." Based on Magruder's talks with school officials, chief negotiators—professionals hired to bargain for the boards or members of the administration—generally prefer private negotiations. He quoted one negotiator as saying that "sunshine hinders agreement and encourages posturing." About one-third of the chief negotiators said they preferred "fish bowl" bargaining, according to Magruder. Public response to the open negotiations has been "dismal," but Magruder said he expects public interest to grow. "Parents are viewing the collective bargaining movement with alarm and asking, 'Who's looking out for our interest?!' " Magruder claimed *(GERR 685:B-27).*

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Parochial Schools

In an important decision affecting all parochial schools, the U.S. Court of Appeals for the Seventh Circuit held that the National Labor Relations Board's assertion of jurisdiction over two secondary schools operated by the Catholic Bishop of Chicago and five high schools operated by the diocese of Fort Wayne-South Bend, Ind., violated the First Amendment principle of separation of church and state. The Board had previously ordered elections among various lay faculty in several school districts. (*The Catholic Bishop of Chicago v. NLRB and The Ill. Ed. Ass; Diocese of Fort Wayne-South Bend, Inc. v. NLRB;* CA 7, Nos. 76-1600 and 76-1638, August 3, 1977.)

ACTIVITIES OF STATE EMPLOYMENT BOARDS

State employment relations boards play an important role in deciding labor relations education issues. This Special Supplement focuses on developments in only a sampling of the many state boards that fulfill this function across the country.

The New York State Public Employment Relations Board (NYPERB) was established in 1967 to resolve disputes between public employees and public employers in all aspects of collective bargaining.

For impasses involving education personnel, NYPERB has responsibility to provide appropriate post fact-finding conciliation if the fact finder's report is rejected by either party. During the year, 541 school impasses involving both teaching and non-teaching personnel were brought to NYPERB. Of these, 76 were settled in mediation; 146 were mediated by fact finders; 57 were settled by acceptance of a fact-finding report; 103 were resolved by negotiations following issuance of a fact-finding report and 42 were resolved by post-fact-finding conciliation.

In recognition of some of the realitites of bargaining, the Iowa Public Employment Relations Board (Iowa PERB) concluded that the timetables for implementation of the statutory impasse procedures were "directory in nature and not mandatory."

The ruling represented another attempt by the Board to find a reasonable way to accommodate the restrictions of the bargaining law to the actualities of the bargaining situation. Under the law, the parties have 120 days prior to the March 15 certified budget submission date of the public employer to complete the various steps in the impasse procedure-mediation, fact finding and binding arbitration.

Timetable for Dispute Resolution

Iowa PERB's first ruling spelling out the timetable for use of the dispute resolving procedures was issued in the *Belmond Community School District* case *(GERR 642:B-18).* Later, in a case involving the *City of Cedar Falls and the Teamsters,* the Board emphasized the necessity for having an "end" to the bargaining process, this being the employer's budget certification date *(GERR 670, B-6).*

In a petition for a declaratory ruling, the Iowa Association of School Boards, Inc., questioned if arbitration would still be arranged "where the parties commenced bargaining in a timely manner, negotiated to an impasse, and were unable to complete statutory impasse procedures by the employer's budget certification date." The association urged that the dispute resolving timetables be directory rather than mandatory, and as support cited a Washington State Supreme Court ruling holding for a flexible rather than mandatory system in applying the specific statutory impasse resolution scheme for uniformed personnel *(GERR 678:B-12).*

After a year of bargaining, the Iowa Board found that "at least a majority of bargaining parties found it difficult, if not impossible, to adhere strictly to the timetables contained in the act," particularly since the supply of qualified mediators is limited and deadlines impossible to maintain. "Recognition of these realities is significant to our determination of whether the timetable in the act are mandatory or directory," Iowa PERB stated, "because the provision and proceedings under the act are to be liberally construed with a view to promote its objects and assist the parties in obtaining justice" *(GERR 686:B-6, Iowa Association of School Boards, Inc. and Iowa State Education Association;* Iowa PERB, Case No. 848, November 2, 1976.)

STATE LEGISLATIVE ACTIVITY

In contrast to the large number of major labor relations laws enacted in the past two years affecting public employees in general, 1976-77 state legislative measures involving school teachers in particular have not been as numerous. The combined output, however, continues to fill certain needs for greater legislative protection of educational employees. Legislative actions of 11 states have produced the following:

► The strengthening of existing statutes in California, Connecticut, Kansas, Montana and Nevada to modify procedures for impasse resolution and fact-finding hearings.

► The approval by New York of an amendment to the Taylor Act granting the designated state employee bargaining union the right to deduct agency fees from the salaries of non-union members of a collective bargaining unit.

► The adoption by Florida of major changes in the state's Public Employment Relations Commission as a full-time,

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three-member commission paid comparably with the state judiciary, plus one alternate, rather than a five-member board with only the chairman full-time.

► The refinement of other existing laws relating to the list of bargainable items in collective negotiations, filing of financial reports by an employee organization, dues checkoff, budget submission date, and open meetings. Amendments dealing with one or more of these subjects were passed by California, Florida, Idaho, Nevada and New Hampshire.

An Overview

Forty two states currently have laws or policies covering collective bargaining by public employees. In 33 states, and in the District of Columbia, the right of state and local government employees to organize has been sanctioned by statutes, court decisions, attorney general opinions, or executive order. Eighteen of these states have laws specifically granting bargaining rights to public school teachers.

Comprehensive labor relations laws in 16 jurisdictions, which generally apply to all categories of public employees, also extend bargaining rights to educational employees. Sixteen states—Arizona, Arkansas, Colorado, Illinois, Louisiana, Mississippi, Missouri, New Mexico, North Carolina, South Carolina, Tennessee, Texas, Utah, Virginia, West Virginia and Wyoming—have yet to enact labor-management relations legislation that mandates, in one form or another, collective bargaining rights to educational employees.

California and Connecticut

Existing statutes in California, Connecticut, Kansas, Montana and Nevada were amended to modify procedures for impasse resolution, filing of financial reports, court actions, and fact-finding hearings.

In California, two new statutes amended the public educational employer-employee relations act. A new law now requires that an employee organization representing public school employees has standing to sue in any court action or proceeding it has instituted on behalf of its members. This provision applies only to actions or proceedings it has instituted on behalf of its members. This provision applies only to actions or proceedings commenced prior to, but concluded or pending as of, as well as on and after, January 1, 1978. Under another new statute, a recognized or certified public school employees union is no longer required to make available to the Educational Employment Relations Board and to union members an annual financial report certified as to its accuracy by a public accountant. A financial report, instead, will now be certified by the union president and treasurer or corresponding principal officers.

Under a new amendment to a Connecticut law extending organization and bargaining rights to professional teachers, the secretary of the state board of education shall be given notice of, and be considered an interested party to, any injunctive proceeding resulting from a teacher strike. In addition, following an impasse involving a municipal employer and a municipal teachers union, a proposed collective bargaining agreement now shall be submitted by each party to an arbitration panel, together with cost data for all provisions of the proposed agreement.

Kansas Professional Negotiations Act

In Kansas, the state's Professional Negotiations Act granting teachers organizing and bargaining rights is changed to include new impasse resolution procedures that terminate in nonbinding fact finding, unfair labor practice prohibitions that are adjudicated by the district court for the county in which the offices of the particular board of education are located, and a listing of negotiable items between school boards and teacher representatives.

The impasse resolution procedures, under the new amendments, state that if in the course of negotiations either the school board or teachers' agent or both believe an impasse exists, either or both may file a petition in the district court where the school or college is located, asking the court to find that an impasse exists and to order commencement of the impasse procedures. Such petitions shall be advanced on the docket of the court and a summary hearing without jury shall begin within five working days after the filing date.

Upon receipt of a copy of the court's finding that an impasse exists, that state secretary of human resources shall appoint a mediator to assist in resolving the impasse. And after receiving either an impasse certification or a written request of failed mediation, the secretary shall appoint a fact finding board. However, the new law declares that the recommendation of the fact finding board shall not be binding on either the board of education or the recognized employee union.

Under the new amendments, the list of negotiable items include retirement, insurance benefits, wearing apparel, and "matters which have a greater direct impact on the well-being of the individual professional employee than on the operation of the school system in the school district or of the community junior college."

Montana and Nevada Laws

The state board of personnel appeals in Montana, the agency empowered to enforce the provisions of the state public employee collective bargaining act, was authorized by a new law to establish a course of study for the training of fact finders and arbitrators.

Two new statutes in Nevada amended the Local Government Employee-Management Relations Act, also known as the Dodge Act. One law makes it an unfair labor practice for an employer or a union not to provide pre-bargaining information. Another measure incorporated "housekeeping" changes modifying fact finding hearing and representation election procedures and setting compensation for members of the Local Government Employee-Management Relations Board. At the same time, the new measure exempts from the state's open meeting law negotiations or informal discussions between parties, mediation and fact finding meetings and investigations, and any meetings of the governing body of a local government employer with its management representative.

New York's Taylor Act

Four new legislative measures amended the state's Civil Service Law, otherwise known as the Taylor Act. Under a new statute, the authority granted to the Public Employment Relations Board is broadened enabling it to issue remedial order directing a party to bargain in good faith, provided the order does not require an employer to accept any conditions of employment not agreed upon. Two new measures grant the designated state employee bargaining union the right to deduct from the salary of every non-union employee an amount equivalent to union dues. The measures also provide that this agency fee requirement be a mandatory subject of bargaining for all other employee bargaining agents under the Taylor Act. Another new law provides that in the resolution of negotiating disputes between a public employer and an employee organization, the public arbitration panel shall specify

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the basis for its findings, taking into consideration the terms of collective agreements negotiated between the parties in the past providing for compensation and fringe benefits.

Florida Law

The Florida Public Employee Collective Bargaining Act, passed in 1973, was rewritten to (1) establish the Public Employment Relations Commission as a full-time, three-member commission paid comparably with the state judiciary, plus one alternate, rather than a five-member board with only the chairman full-time; (2) give PERC and the courts authority to award attorney fees and costs and give the former the right to hold proceedings in private and the latter power to enforce PERC orders; and (3) define "good faith bargaining" in detail and list specific examples of bargaining in bad faith.

Under the old law, union dues checkoff did not have to be bargained but was permitted only during contract terms, but now it is elevated to a statutory right for as long as the employee organization is certified. Strike funds, under the new amendments, are defined and declared illegal, and bargaining on retirement benefits is prohibited, as these benefits are set by law.

"Good faith bargaining" is defined by the new law as follows: ". . . the willingness of both parties to meet at reasonable times and places, as mutually agreed upon, in order to discuss issues which are proper subjects of bargaining, with the intent of reaching a common accord. It shall include an obligation for both parties to actively participate in the negotiations with an open mind and a sincere desire, as well as making a sincere effort to resolve differences and come to an agreement."

Incidents indicative of bad faith, under the new amendments, include the following: failing to meet at reasonable times and places for purposes of negotiations, placing unreasonable restrictions on the other party as a prerequisite to meeting, failing to discuss bargainable issues, refusing on request to provide public information, excluding work products, refusing to negotiate because of an unwanted person on the opposing bargaining team, negotiating directly with employees rather than their certified bargaining agent, and refusing to reduce a total agreement to writing.

Other State Actions

Hawaii—Under a new law, whenever two or more duly certified exclusive representatives of public employees in bargaining units merge or enter into an agreement for the common administration or operation of their affairs, all rights and duties of the employee representatives shall inure to and shall be discharged by the organization resulting from the merger or agreement.

Idaho—A new amendment mandates that joint ratification of all final offers of settlement between the board of trustees of each school district and the professional employees be made in open meetings.

New Hampshire—An amendment to the public employee labor relations law fixes the annual budget submission date for a town, school district or supervisory union to February 1. At the same time, a public employer is now required to record its budget submission date with the public employee labor relations board.

Rhode Island—The 1976 law that extends organization, representation, and bargaining rights to certified public school administrators in the city of Providence is repealed.

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